

**C O N F E R E N C E** of Dr. Duncan G. Scott, Deputy  
Superintendent-General of Indian Affairs of the Dominion  
of Canada, W. H. Ditchburn, Chief Inspector of Indian  
Agencies of British Columbia,

**W I T H** The **EXECUTIVE COMMITTEE OF THE ALLIED  
INDIAN TRIBES OF BRITISH COLUMBIA;**

Held at Victoria, B.C., beginning on Tues., August  
7th, 1923, at 11 A.M./

The following being present, composing the said  
Executive Committee:-

Rev. P. R. Kelly, of the Haida Tribe, Chairman,

Andrew Paull, of the Squamish Tribe, Secretary,

Ambrose Reid, of the United Tribes of Northern B.C.,

Alec. Leonard, Kameleops Tribes,

Thos. Adolph, Fountain Tribes,

Narcisse Batiste, Okanagan Tribes,

Stephen Etashet, Millecet Tribes,

Geo. Matheson, Lower Fraser Tribes,

Simon Elerre, Lower Fraser Tribes,

Chris. Paul, Saanich Tribes,

John Elliott, Cowichan Tribes,

Mrs. Cook, Kwakwalth.

A. H. O'Meara, of Victoria, General Counsel of the  
Allied Tribes.

Representing  
Interior of  
British Columbia.

(Proceedings reported by Mr. Justin Gilbert, Victor)

DR SCOTT: Gentlemen, as you know, at the request of the Honourable Superintendent-General, we are continuing our meeting held at Vancouver a few days ago,—for the purpose of discussing more in detail the terms which might satisfy you for a cession of the aboriginal title in this Province. I understand that you have the power, Mr. Kelly, to discuss that question with us?

MR. KELLY: Yes.

DR SCOTT: And stress, I think, is made in the Minister's speech to you, on the question of the report of the Royal Commission on Indian affairs, in the Province of British Columbia. And I think our first duty should be to discuss that question;—that is the adoption of the report of the Royal Commission on Reserves, to find out how far you consider that meets the needs of the situation, and whether you are willing to accept it.

The main report schedules have been in your hands for some time, and the provisions of that part of the report ought now to be pretty well known to you.

I think I should call upon the Inspector to explain the additions and modifications in that report,—the whole of which has been confirmed by the British Columbia Government, by their order-in-council of the 26th of July.

MR. KELLY: May I ask, Dr. Scott, if you are going to confine the meeting, at the outset, to considering the report of the Royal Commission?

DR. SCOTT: I think we ought to take up discussion under the various heads on which the discussion will take

As the Minister laid great stress on that, I think we should discuss that first. What is your idea, Mr. Kelly?

MR. KELLY: We are under the impression, and I think it is a correct one, that the Commission deals with just the Reserves—nothing else but the reserves.

DR. SCOTT: Nothing but the reserves.

MR. KELLY: It does not touch any question in connection with the Indian land question. And I think we have pointed out, that we have been a little cautious in making that binding, because, as I think I pointed out in my speech in Vancouver, we have no rights, apart from our aboriginal rights—which of course is in the lands of this Province. By agreeing with the Royal Commission, which does away with all our land rights, it seems we would have surrendered everything, without having received what we would like to have included in the terms of settlement. Our idea has been to discuss what we may call the terms of settlement, in a very full way—perhaps not in every detail; that could not be done in a meeting of this kind, but come to an understanding along general lines of settlement before we accept the report of the Royal Commission. That has been our idea, and I think we have pointed out, not in so many words, but in some sense, that idea.

DR. SCOTT: Mr. Kelly, my understanding is that I am not here with powers to accept; I am only here with power to report to the Government, or the Honourable Superintendent-General. Of course, while we want full discussion, the reserve question is one of par-

amount importance; and it is not, I think, the intention of the Minister that you should be asked to definitely state that you ~~are~~ accept or do not accept the final settlement of the report of the Royal Commission. Is that not your understanding, Mr. Ditchburn?

MR. DITCHBURN: Yes. I think, possibly, after I have given you a proper explanation of the situation, that any apprehensions that you might have had with regard to the report of the Royal Commission, will be wiped out.

In order that you may understand the situation more fully—and you all can understand English as well as I can—I want to explain to you that the Indian Reserve situation was dealt with, prior to 1913, by Indian Reserve Commissioners appointed from time to time since British Columbia came into the Union—under Article 13 of the Terms of Union. The various commissioners carried on their work, allocating reservations from time to time, until about 1907, when the British Columbia Government refused to set aside any more lands for the Indians, claiming that the Indians had plenty of land, and in some cases more lands than they required. Dr. J.A.J. McKenna was sent out from Ottawa as a special commissioner to treat with the Government of British Columbia in 1913, in an endeavor to induce the Government of British Columbia to change their views in the matter. The Doctor had a number of conferences with the late Sir Richard McBride, and also put in a strong written argument on the question. The result of this argument, and the interview, was the formation of the



Royal Commission on Indian affairs.

W.E.D. That commission had no power other than to deal with Indian Reservations. I think that should be fully understood by everybody,—and the sooner it is understood, and very plainly understood, the better it will be for everybody, because we get down to a proper basis of reasoning then. I have before me the order-in-council appointing the Commission; and the Commission had power only to adjust the acreage of the Indian Reservations. The Commission did ask for other powers, in 1913 or 1914, shortly after they were appointed; but the Government at Ottawa, by an order-in-council of June 10, 1913, <sup>refused</sup> ~~refusing~~ to give them any further power. That order-in-council says that the <sup>agreement</sup> ~~Commission~~ did not contemplate an investigation and settlement of matters appertaining to general Indian policy in British Columbia, it is confined to matters affecting Indian lands, which require adjustment between the parties. W.E.D.

I might explain to you that when Sir Richard McBride and the late Dr. McKenna began to confer, the question known as the aboriginal title came up; and here are the opening remarks of Dr. McKenna's argument to Sir Richard McBride,—he says, "I understand that you will not deviate from the position which you have so clearly taken, and frequently defined; that is, that the Province's title to these lands is unburdened by any Indian title, and that your Government will not be a party, directly or indirectly, to a reference to the Courts of the claim set up. You take it that the public interest, which must be regarded as paramount, would be injuriously affected by such refer-

ence; in that it <sup>would</sup> throw doubt upon the validity of the titles to the land in the Province." He says, "As stated in our conversation, as far as the present negotiations go, it is dropped." I am just reading this to you so that you can thoroughly understand that the formation of the Royal Commission had no other question in sight at the time than the settlement of the Indian Reserve question.

Personally I never could see why any objection should be taken to the report of the Royal Commission on Indian affairs, when you understand that they only had to deal with the reserves. The Royal Commission went into the matter very fully; and, personally, I think that they dealt very very liberally with the Indians, insofar as it was in their power to do. They gave lands to Indians hands of the Province of British Columbia that no application had ever been made for before to the Department. In fact, I may explain to you, that the late A. W. Vowell, in 1909, who was Indian Reserve Commissioner, as well as Superintendent of the Indian affairs for the Province of British Columbia, winds up his report for that year, saying, "Owing to the dispute between the Dominion and the Provincial Governments as to the ultimate reversion of the reserves, the Honourable Chief Commissioner of Lands has refused to sanction any further allotment of land to the Indians. The work, therefore, cannot be proceeded with until that question is settled; the greater part of the surveys, however, can be done as soon as the weather permits."

He then goes on and gives a list of reserves that are still to be set aside;

Queen Charlotte Islands,---Additional land at Slate Creek.  
Kitwanger,---Additional land asked for at Andimaul.  
Kispiax,---Additional fishing station asked for.  
Nitinat,---Additional fishing station at Vargas Island  
asked for.  
Fountain,---Additional land asked for.  
Pavilion, Milleost, Ashcroft, Bonaparte, Deadman's Creek,  
Clinton,---Additional land asked for at Rherhem Lake  
for fishing and grazing purposes.  
Douglas Portage,---Village site and fishing station asked for.  
Babine,---Additional fishery asked for at Cooper River.  
Kincolith,---Additional reserve asked for at Dogfish Bay.  
Portland Canal, in lieu of that now within United States  
boundary.  
Hagwilget,---Additional land asked for between reserves  
Nos. 1 and 2.  
Kitlaedamax,---Additional land asked for south of reserve  
No. 1, Naas River.  
Greston---Additional land asked for by Lower Kootenay  
Indians."

And then he says the only bands that have no  
lands are those at Anaham Lake, Ootsa Lake, Kitwancool,  
and the Atlin, Reserves.

Now that was all that was premeditated under  
the whole system.

W.E.D. The report of the Royal Commission shows that  
there are 66,640 acres in the confirmed reserves; and  
in the new reserves 87,291 acres, and in the out offs,  
47,058 acres.

So far as the work of the Royal Commission is  
concerned, and the adoption of their report, and pos-

W.E.D. sibly the committee knows, the Government of British Columbia refused to adopt until the matter had been fully gone into;—that is the Brewster Government that came in in 1916; they refused to have anything to do with it until the matter had been fully gone into by some of their own members. Eventually Maj. Clark was appointed by the Province of British Columbia, and I was appointed to represent the Dominion Government; <sup>to</sup> ~~in~~ going through this report. I am very pleased to say that I believe that we have got a splendid settlement with the Government of British Columbia. There have been very very few changes made in any of the agencies. In fact I have got some additional lands that the Commission were not able to give, in some instances, and in some instances where additional applications came in to me from various small bands.

The supplementary list put in by this executive committee must be considered separate from this report. If any member here wants to know anything about their own particular bands, I will be only too pleased to give them that information,—that is to show you how the Commission treated you. I may say that the only agency in which any changes were made—and they are not extensive—was that known as the Stewart Lake Indians,—a little jebbing around and getting something that we had not asked for, by exchanging for it. But all this was done after a very full consultation with W. J. McAllen, Indian Agent for the reserve in question. And if there are any Indians from that section of the country here, they will bear me out in saying that Mr. McAllen always looks very well to the

interests of the Indians in that neighborhood.

So much for the report of the Royal Commission. As there was objection registered by the Allied Tribes to the adoption of this report; they were given opportunity to show the Government of British Columbia wherein they fell short of the requirements of the Indians. The late J. A. Teit, of Spences Bridge, was appointed to inform Maj. Clark and myself; but, unfortunately, he took sick and for quite a time he could not send in any reports. Latterly he did, however. But at the meeting of the Indians with the Honourable the Minister, on the 25th of July last, 1922, the executive thought that they should have power to carry on the work that Mr. Teit had started; and Messrs. Kelly, Reid and Paull were elected by the executive committee; and they went into the northern sections of the country, met the Indians, and eventually put their report in before myself.

After analysing these reports, and selecting the lands that had been asked for, those within the power of the Government to give, I laid before the Honourable, the Minister of Lands last year, what is known as a supplementary report, covering the Bella Coola and the Kwawkwath, and the West Coast agencies, <sup>the</sup> also Williams Lake agency---though this was not put in by the executive committee. Unfortunately the executive committee placed before me such demands for very large territories, that the Government of British Columbia gave them a flat refusal. This supplementary report is now being vised by the officials of the Lands Department; and although the Minister of

W.E.D. Lands has been <sup>very</sup> ~~much~~ averse to giving any of these, I am somewhat hopeful of getting at least something out of him.

DR. SCOTT: I think we should define the result of the meeting we had with Honourable John Oliver.

W.E.D. MR. DITCHBURN: Yes; I may explain that the Minister of Lands took a <sup>d</sup>very averse view as far as giving any of these lands contained within the supplementary list. After the last meeting, at Vancouver, Dr. Scott and myself went over and had an interview with the Honourable, the Premier, John Oliver, and laid this matter before him. The Minister of Lands was called into the conference. And it was then decided to give further consideration to this supplementary list. It is now being handled by Mr. Mackenzie, the man who attends to the grazing of the Province. He is at present out of the City, but will turn in a report within another two weeks—he is expected to return in about a week now.

So that I am hopeful, now, of getting something out of this; that a little while ago there seemed to be absolutely no hope for.

If there is any question that any of you would like to ask in regard to the report of the Royal Commission, or anything on the reserve question, I will be pleased to supply the information.

I have endeavored to give you this explanation in order that you may separate the reserve question from the aboriginal title question. If they ever were connected in anybody's mind, they should be separated, and kept separate. I have never seen any reason why there ever should be any connection between the two.

In discussing the aboriginal title question I could not see that a reference to the report of the Royal Commission on Indian affairs had any bearing on the subject at all.

MR. PAULL: Do you entertain hopes of receiving further conveyances from the Province after they pass the order-in-council of the 25th of July?

MR. DITCHBURN: Oh yes, I have hopes.

MR. PAULL: According to my interpretation of that order-in-council it would not be that way.

MR. DITCHBURN: The understanding was, Mr. Paull, that what is known as a supplementary list was to be entirely excepted from the Royal Commission's report altogether,--- a separate consideration altogether. The passage of the order-in-council the other day does not prevent the Government of British Columbia granting anything further.

MR. KELLY: Does that order-in-council then confirm the original report of the Royal Commission?

MR. DITCHBURN: That is right.

MR. KELLY: And not the supplementary list?

MR. DITCHBURN: No, not the supplementary list.

That is fully understood, Mr. Kelly.

MR. KELLY: Does it not so state in the order-in-council; does not the order-in-council refer to the new list that is sent in?

MR. SCOTT: No, it does not refer to it at all; it simply approves of the schedule which is attached to the order-in-council; that is this schedule.

MR. KELLY: That is the original schedule.

DR. SCOTT: That is the original schedule, as modified by the additions---with the additions and changes made on the recommendation of the Chief Inspector, Mr. Ditchburn and Maj. Clark.

MR. KELLY: Well, does not that refer to the newer report? I mean, that has been brought in since the report of the Royal Commission has been finished, hasn't it? My question is this,---I thought from what you said, that the order-in-council which was passed, here, only a few days ago, confirmed the original report of the Royal Commission, and had nothing to do with the list that was brought in by Mr. Ditchburn and Maj. Clark?

DR. SCOTT: Do not misunderstand;---this original report was modified after examination by Maj. Clark and Chief Inspector Ditchburn; then you reported; and we called you to find the supplementary list based on that report; and the three of you sitting there, the supplementary list is based on your report, and has nothing to do with the findings of the Royal Commission.

MR. KELLY: Now I noted a few other things, Dr. Scott and Mr. Ditchburn, that we would like to be clear on. It may be that it was not our fault that we were confused, if we were confused, about the work of the Royal Commission; but you can understand how it was necessary for us to be very careful that we did not jeopardize the Indian position by agreeing to anything that we were not absolutely certain about. As we have pointed out time and again, although we were assured that the Royal Commission dealt with nothing but reserves, yet the order-in-council under which that Commission was appointed, said in so many words that,



resulting from the Commission's work it would be the final settlement of all the matters relating to the Indian affairs. Now those words must have been ambiguous. If those words said, all matters relating to Indian Reserves, then the matter would have been clear. But you can understand, gentlemen, that having these words before us, I think we could not draw any other conclusion than the one that we did. It was a dangerous suggestion for us to agree to. That is exactly the stumbling block in the whole thing. I notice that the wording is a little different in the recent order-in-council which was passed here a few days ago, the Provincial order; but that was the reason, if you were not confused we were confused, because those words were so distinct, you see, that at once we protested it—you know the history of that just as well as I do—but we vigorously protested against that.

DR. SCOTT: Yes.

MR. KELLY: I have this in mind,---this is not a question that just comes to me on the impulse of the moment. If Dr. Scott would explain to us in this meeting his interpretation placed on the sequence of things as they occurred---now Mr. Ditchburn has given us a little of that---the agreement that was arrived at between Dr. McKenna and Sir Richard McBride, and after that the order-in-council/which resulted in the appointment of the Royal Commission; and then, of course, the report of the Royal Commission was adopted, I think under a law known as Bill 13 in Ottawa---that is, it was embodied in that law, so that it could be dealt with;

and then, more recently, something similar to that was passed here on the 25th of July last, the order-in-council passed through. Would it be possible for you to explain to us, Dr. Scott, how you interpret that, from the Government viewpoint? We may have a different view. We would <sup>like</sup> ~~would~~ like to have the knowledge of how you view the whole thing---when I say you, of course I mean the Dominion Government.

DR. SCOTT: Perhaps I do not quite understand the scope of your question, Mr. Kelly, because the matter is so plain to my mind that I do not see why there should be any difficulty about it. When you say interpretation, I do not think I should be called upon, nor am I able, to make a legal interpretation of the matter. But as to the sequence of the events I think it is clearly possible to make an explanation.

As a matter of fact, as I understand it, the general legislation which enabled the Governments to confirm the report of the Royal Commission, as a matter of fact, should have preceded, technically, the appointment of the Commission itself. I understand that when the Governments had the report in their hands, they found that they should have the statutory authority to confirm it. And that was the reason why both Governments passed Acts, which read the same,---the same phraseology in both Acts, to enable them to deal with the report of the Royal Commission legally. So that the Dominion Government passed an Act, which we know when it was a Bill as Bill 13,---which was assented to on the 1st of July, 1920,---an Act providing for the settlement of dif-

ferences, which enabled the Governments legally to accept the report of the Royal Commission. The order-in-council which the Lieutenant Governor passed on the 26th of July, is their action to confirm the report of the Royal Commission. And it was necessary for His Excellency, the Governor-General of Canada, to pass an order-in-council in similar terms, accepting the report of the Royal Commission. The only point in discussion is that it appears to be a final settlement as between the Dominion and the Provinces with respect to reserved lands, and reserve matters only. You have a copy of the Provincial order-in-council, and you see that that is perfectly plain.

MR. PAULL: May I ask this, Dr. Scott,—you have informed us that the law known as Bill 13 enables the Government to make it possible to accept or adopt the report of the Commission; then would the recent order-in-council of the Provincial Government be the necessary order-in-council for including Bill 13, to adopt the whole thing?

DR. SCOTT: Yes, that is what it is.

MR. PAULL: Then, if the Government of Canada has passed Bill 13 making it possible to adopt the report of the Commission; the Provincial Government has passed the order-in-council of July 25th, then the two Governments have adopted the report of the Commission, have they?

DR. SCOTT: Yes.

MR. PAULL: Subject to any supplementary reports or additions.

MR. SCOTT: Well, that is something additional altogether.

When that is dealt with that can be the subject of confirmatory orders-in-council.

MR. PAULL: Now, as matters stand, the two Governments have adopted the report of the Commission by virtue of the law known as Bill 13.

DR. SCOTT: No, they have not adopted it <sup>in fact</sup> when the order-in-council was passed.

MR. PAULL: I just wanted to be clear on that, Doctor. I notice that you said that Bill 13 made it possible for the adoption of the report of the Commission; I think you said that.

DR. SCOTT: Yes; but it did not adopt the reports.

MR. PAULL: It did not adopt the reports.

DR. SCOTT: No, it did not; it gives the Governor-in-Council power to adopt the reports. Did I answer your question, Mr. Kelly; is that exactly what you want to know?

MR. KELLY: Not exactly.

DR. SCOTT: Perhaps you will make it clearer; I am very anxious, if it is possible for me to do so, to clear up these points.

MR. KELLY: Perhaps I was mixed up in my words when I said interpretation; I did not mean so much interpretation as explanation. What I meant was this; what was the motive behind this move, what was the purpose of the move? There was an agreement in 1911, I think when Dr. McKenna came out.

MR. DITCHEBURN: 1912.

MR. KELLY: 1912---and met Sir Richard McBride here; and as a result of that agreement of course steps were taken to appoint the Royal Commission on Indian affairs.

The order-in-council was passed, first, which appointed the Royal Commission on Indian affairs. Now you can see why we are anxious about that. The order-in-council which put that machinery in order, distinctly said that it was going to be---the work of the Royal Commission; rather, was going to be the machinery that will produce the final adjustment, or the final settlement of all matters. Now, this is where we do not quite understand yet,---although Mr. Ditchburn says he does not see why we should have mixed the two up, the aboriginal title and the report of the Royal Commission which deals with reserves only. Now we understand when the Commissioners came on the then reserves, they told very distinctly the different bands and tribes that they had nothing to do with the aboriginal title, but they were dealing with reserves only. But, once again, we fall back on the order-in-council which appointed that Commission. Once again we are confronted with these words. Which are we to accept, the words, the assurance that was given by the members of the Commission, or the order-in-council which appointed that Commission? And even today, after they have passed the order-in-council here on the 26th of July last---in that it says---it makes reference of course to the reserves only---simply carrying out the agreement of the order-in-council of long ago. Once again we just bring up the question, which are we to accept, what interpretation are we to place upon that? Now perhaps you would be able to shed some light on that, that will satisfy my purpose. It is not with the idea of confusing you, but rather to give us a true

light of how the Government view the whole thing. What is their purpose in doing that? Now we would like to have some understanding of it.

DR. SCOTT: Well, the purpose, of course, for the appointment of the Royal Commission in the first instance, was that all allotment of Indian lands in the Province, reserved lands, should cease, not only in the railway belt but in the Province generally. The Dominion Government earlier than 1912 sent persons who were perfectly empowered to look into the question of reserves in the railway belt. Some additional lands were given on the report of that officer. But the Government in 1912 wished if possible to settle the question of aboriginal title in British Columbia.

MR. KELLY: In 1912?

DR. SCOTT: Yes. And Dr. McKenna discussed that with Sir Richard McBride; and Sir Richard McBride took the position, which the Provincial Government has always taken, that the Indians had no fee in the lands, and they would not discuss that. They were simply willing to carry out the provisions of the 13th clause of the Union, and to set apart reserves. Is that perfectly clear, Mr. Kelly?

MR. KELLY: Yes. Then the 13th Article deals with nothing but reserves.

DR. SCOTT: Nothing but reserves. It says, in placing the application for Indian lands upon the Province, it places upon the Dominion Government, as I take it, the onus of carrying out some policy with reference to other items of the Indian administration. But the tracts of land that were to be set apart, were to be

set apart from the Provincial lands. The reason why Mr. Ditchburn says so emphatically that the reserves had nothing to do with the aboriginal title, is that the Provincial Government removed that from it, they would not consider—in granting lands for your reserves they were not acknowledging in any way the fee that was in the land. Does that clear the matter better?

MR. KELLY: It is quite clearer.

DR. SCOTT: And of course the appointment of the Royal commission, and afterwards the passing of the Bill, or the induction of Bill 13, was, as I say, to make it legally impossible for the Government to accept the report of the Royal Commission.

In the report as accepted by both Governments, provisions of the McKenna-McBride agreement are operative; that is, the Province has no further reversionary interest in these reserves. Is there anything still remaining?

MR. KELLY: It simply results in this, what Mr. Ditchburn has pointed out; it is because the Province has been interjected all the way through, in taking this stand upon that idea; that the Indians have no rights at all, have no aboriginal title to the lands,—that they have said in so many words that the Indians have no need of further lands, and the Province can only give what it sees fit to give, and no more. As pointed out, where there were applications made for large territory by some of the bands, the Government has given them just a flat refusal.

DR. SCOTT: Yes.

MR. KELLY: They would not entertain why, just simply

because they were logical in their stand; that the Indians have no rights to reserves given out of the goodwill of the province, and based on no other. Now that is exactly where we do not see eye to eye with the Province.

DR. SCOTT: Yes, certainly that is the point. But our purpose in these discussions is to endeavor to come to some basis of possible settlement, with either the Dominion or the Province, of the aboriginal title. Isn't that the purpose of our discussion today?

MR. KELLY: Yes.

DR. SCOTT: So that the report of the Royal Commission comes into it to a certain extent. And I think the wording of the Minister's sentences at our meeting in Vancouver will show you, that he wants to know how far you approve of that. And that is the reason why I wanted to deal with that question first; although I am not averse to dealing with the whole question in some other way, if you can suggest it.

MR. KELLY: On p. 37.

DR. SCOTT: Yes. That is what he distinctly says. I wish to be guided by the Minister's directions—because they are almost directions in this matter, and make some progress in that most important question.

MR. KELLY: He says there, "I think it is evident it is to the interest of the Federal authorities to get as good a land settlement as possible in the interests of the Indian Tribes, because it will, in a very considerable degree, lessen the burden of responsibility upon the Federal authorities, so therefore I think our interests are somewhat identical in that respect."



DR. SCOTT: Yes. And then he says, a little lower down, "If that is impossible, if that cannot be done, if you cannot be satisfied with the allotment of reserves and as I felt from the wrong impression I took of Mr. Kelly's remark that even if these allotments were satisfactory, there still might be in your minds"--- well, you cleared up that point. But you see he wants to know if you are satisfied with this allotment of reserves, and if not, why not.

MR. KELLY: Well, just because of this reason, DR. Scott, and Mr. Ditchburn,---I am sorry to say that this is the truth, but it is the truth, and I might just as well face it,---the Executive Committee has power to come to a general basis of understanding with you, but you know very well that when it comes to the actual signing of the settlement, the representatives of each band must have that---the representative of each side must be present to do the signing. Among them many of the executive members would be present, no doubt. But as it is---since, for instance, the Naam people, who have made a claim for large territory, and when they are told "your application was never entertained, it was simply ruled out as being altogether unreasonable", I do not know just what they would say. Unfortunately their delegate has gone home, although he has given his powers to one of the executive members to act for him as proxy. In my mind that is not quite good enough, it does not give him the authority to speak with the conviction that is necessary,---for he has not the knowledge. Now, that is exactly what we are up against right now. And certain other sections of the country of

the Province made applications for certain parcels of ground for a definite purpose; and even before the matter was dealt with the Minister of Lands made a public statement, I think on the floor of the House, that he was not prepared to entertain such applications, made by Indians for certain parcels of lands, and the Government would never entertain that. Now you can see where that would cause dissatisfaction and disagreement.

DR. SCOTT: Yes. Well then, what was in your mind, so far as the procedure is concerned at this meeting; what procedure would you like to adopt,---because I am willing to fall in with it to as great an extent as possible?

MR. KELLY: Now we will be quite frank with you, Dr. Scott; we will tell you exactly the procedure we had in mind,---although we did not come with the idea of trying to force upon you any program that we had in mind.

DR. SCOTT: No.

MR. KELLY: We thought that it was up to yourself to make a general answer on behalf of the Government to the position that we took when we interviewed the Minister in Vancouver. And then it was in our minds to ask you to explain in a connected and exhaustive way, if necessary, the different steps that were taken, such as I have asked you, on the agreement, the order-in-council, the Commission, Bill 13, and also the order-in-council that was passed here the other day. We would consider that reply; and as we are speaking through you, we take it that we are not merely address-

ming yourself here, but rather we are addressing, through you, the Dominion Government, and perhaps the Provincial Government itself—I am inclined to think that the record will go in to the Provincial Government. So we thought we would like, once again, in a connected way, and in a very strong way, if that were possible, to declare where we are standing—where we have stood in the past, and where we still stand. We would define that in a connected way, in a constitutional way it may be, not just so much for your personal information, but for the sake of going on record. And then, when that is done, if you agree to say, Now we recognize that, and we admit that, and we are willing to deal with that, in a way that shall produce satisfaction to both sides, then, having established our stand, and registered our position, we would go on to deal with the terms of settlement. When I say terms of settlement, I mean in a broad way—detail were it can be made in detail, you see. That is what we had in mind. I do not know just how far that would meet with your approval.

DR. SCOTT: I see no objection to that, whatever. Of course I have answered to a certain extent—I have given a detailed explanation of the sequence of events which led up; so that I think we might cancel that.

MR. KELLY: Yes.

DR. SCOTT: So far as the general answer to this position, I think I might almost say that the Minister gave it himself in his own speech; he placed upon me certain duties, that is of coming here and listening to you, and obtaining from you your views with re-

ference to the general basis of the settlement that might be made, whether with the Dominion Government or with the Provincial Government, that does not appear distinctly from the Minister's speech. You will understand that, following his direction, I endeavoured to have a member of the Provincial Government at this conference, and to have the Provincial Government represented; but they refused, stating that anything, any matter for discussion was not between themselves and the Indians, but between the Dominion Government and the Indians. And there the matter rests. And at that interview with the Prime Minister of British Columbia I presented your views, and I also presented a copy of the proceedings at Vancouver; so that the Provincial Government has now possession of the facts in the case. You are quite right in saying that I am here to transmit the views of the Indians; but I think it was the hope of the Minister that some general conclusion, not necessarily detailed, might be arrived at, in order that we might give the matter further consideration. The order-in-council of 1914 seemed to be an obstacle; and I understand the Minister has really removed that from the pathway. You are not expected to accept as final the report of the Royal Commission; or to promise anything beforehand. The agreement, if agreement is made, is to be made with the chief men of each tribe, in its own locality, and to follow the general needs of the tribe. Whether it is still intended that the Dominion Government should make satisfaction to the aboriginal title, as was stated in the order-in-council

of 1914, or the Provincial Government, I am unable to say. That is a question for the Government to decide. But the purpose of our meeting, I think, is distinct; and I do not think we should take up the time by having a program about your position, because it is too well known; we know what it is, perfectly. I do not see why, when the Provincial Government has it, and we have it, you should want to put it on record again. I think what we ought to proceed to do is to discuss the general basis of a possible settlement—and that was the purpose of the meeting. The question of the nature of the title, and that sort of thing, I do not think comes into it just now.

MR. KELLY; You think you are safe, then, in saying, Dr. Scott, that you can say on behalf of the Government that the order-in-council of 1914 does not operate as far as this conference is concerned?

DR. SCOTT; Yes, that is the fact, it does not operate at all. That was an order-in-council designed to take the case to the Courts; and the Minister says, of course; as he promised to you last year, that he does not wish to take a case to the Courts; that he wishes to have a settlement outside the Courts; and I think we all hoped that that would be possible.

MR. KELLY; Yes, that is one section of it. In other words, as far as our present conference is concerned, the order-in-council may not exist—may just as well not exist at all.

DR. SCOTT; No, we considered that in oblivion, as a matter of fact. Because the Minister has made a certain offer; which, in a way, superseded the order-

in-council. You understand that ?

MR. KELLY: Yes. Is it possible for the Minister to make that offer, in view of the position taken by the Province all the way through, in view of the fact that there has been an agreement arrived at, and that agreement still exists ? Is it possible for one of the parties to the agreement to say, Now we are going to ignore this, let us come to some new understanding ? Is it possible for that to be done ?

DR. SCOTT: Well, so far as the settlement of the reserve question is concerned, I cannot advise what my Government will think of the present position, you see.

MR. KELLY: You cannot advise ?

DR. SCOTT: No, I cannot advise; I am not here for that purpose. It would not be possible for me to make any pronouncement on that. The Dominion Government has the power to accept the report of the Royal Commission, as a final adjustment of the reserve matters.

MR. KELLY: They also have the power to hold it in abeyance until the Indians have been satisfied.

DR. SCOTT: Well, I cannot say; I would not interpret it that way; I cannot say that. I mean to say, I do not want to place an interpretation on the Act.

MR. KELLY: I see. The reason we must move cautiously in this matter is this, that although the Province was a party to that agreement, and one of the parties, the Dominion Government, gives us every assurance that that the matter will be given a very careful hearing.

W.E.D. *The Province* simply draws out of it and gives us the impression that they do not want to have anything to do with it, do not want to be a party to this at all;---

what they did long ago is just exactly where they stand, and they are not going to change their position. On the other hand, the Dominion Government comes and says, Now we are not bound by this, at least we do not consider ourselves bound by this, we stand on no ceremonies, we will just come right out and have a frank talk with you, as if nothing stood in the way.

MR. SCOTT: Yes.

MR. KELLY: We just want to know if it is possible to carry that out in reality. You are not prepared to answer that?

MR. SCOTT: Well, of course it is somewhat difficult. As you see, the Minister said that I would listen and report---that is practically what he said. And you, on your part have said, on p. 34, you see, "We see, Sir, that the Government has not got any magic powers to bring forth funds, their funds must come from the goodwill of the people of Canada; and we recognize this, that to take an unreasonable stand, to make our demands unreasonable, would be antagonising the citizens of Canada generally, and we are not prepared to go that far. We recognize the danger of taking such a stand. Therefore, we are always open to reason, and I can assure you any demands---claims, not demands, that we make, will always be within reason." Now the Minister wants to know what they are; that is the whole purpose of this conference, to find out what those demands are. And then I take it the Minister would decide whether they could be satisfied by the Dominion Government, and whether they ought to be satisfied by the Provincial Government, and what action he would take.

MR. KELLY: Yes; we agree there. We do not take any stand on that at all.

DR. SCOTT: Then the point is, we are here to discuss the demands. If there are further land demands, if you say finally and conclusively that you are not satisfied with the report of the Royal Commission on Indian affairs with reference to reserves, I think that ought to be on record, and if possible you ought to say what you expect in addition to that.

MR. KELLY: Yes; But don't you see, Dr. Scott, that before we get down to this, we were trying to get an understanding from you that we are not jeopardizing our stand by doing so; that is to say, an agreement has been reached, orders-in-council have been passed to finish the work that was started; now, in view of that, we somehow feel that unless we have an assurance that it is not jeopardizing ourselves in any way at all, we are afraid of being caught in a tight place, from which we will find it later on very difficult to get out.

DR. SCOTT: I do not understand that point; because, I do not know that I can give you any assurance. We are having a frank consultation here. If you say, No, the report of the Royal Commission is not satisfactory to us, how would that jeopardize your case? I cannot understand it.

MR. KELLY: Well, that is not the point I am at. I meant, in view of certain agreements that have been reached and have been completed. An agreement was made to settle this whole matter, and it has been done.

DR. SCOTT: You mean the matter of the reserves?

MR. KELLY: Yes, it has been done.



DR. SCOTT: Yes. And the papers all show that it was to be a final settlement.

MR. KELLY: Yes.

DR. SCOTT: I understand that perfectly well. But if you say you are not satisfied with that settlement, how does it prejudice your case? The Dominion Government has to decide now whether or not to pass the order-in-council, and the Minister is probably waiting to hear from you, whether you consider this reserve settlement satisfactory. He says so several times through the course of his speech. That is constantly in his mind, evidently. <sup>What</sup> Are you going to say to him with reference to the schedule of reserves? And that is the reason <sup>is the</sup> that I said this/matter of paramount importance, and ought to be settled first.

MR. KELLY: Well, I think the evidence of good faith—I do not say this because I doubt the words of the Minister, and his sincerity—but when I see evidence of good faith of the Dominion Government, and the action taken by the Provincial Government, the concern of the Indians in the matter would be this, if the Government of Canada say, Now we are not going to pass any order-in-council similar to the order-in-council that was passed by the Province, until you are absolutely certain that you have had a chance to discuss your terms of settlement,—until that is done we shall not pass any order-in-council---if that were done, if we had that assurance, I think we would feel confidently safe.

DR. SCOTT: Of course I do not know who could give that assurance, except the Minister. There always ought to be in your minds exactly what the Minister

said; and I presumed that you were carrying that in your minds. At the bottom of p. 41, that whole sentence has a bearing on the matter; I will just quote from the Minister, Mr. Stewart, "I did not anticipate we could settle this matter in five minutes. Orders-in-Council are awaiting this conference, the signatures are still to be attached, waiting to see just definitely where you stood in the matter, so, while we appear to have adopted the matter, we were anxious to give the fullest investigation to this matter because this conference which was intended to be held last fall, and which is being held today, was for the purpose of trying to ascertain whether or not the Indians were going to be satisfied, reasonably satisfied, and whether it would be possible to come to a satisfactory conclusion with respect to this matter, and begin from the standpoint of having settled the land question, to then deal with the other questions which were intimately concerned between the Indians and the Federal Government."

I think these are almost directions to us from the Minister as to what we are to do. He is not here today to say what the Government would do; and I do not think that he would, without consultation, state what the Government is willing to do. But he wants to find out what you want.

MR. KELLY: Then I take it, the first discussion that will be now, will be, then, the reserves?

DR. SCOTT: Yes, that is what I started with. But if we have cleared up any points from this discussion, I think it has been useful. But I thought your minds were very full, as mine was, of the sympathetic directions

of the Minister, to myself and to yourselves.

MR. KELLY: Well, that is clear; but we understand a Minister who comes out and makes a public statement, has not the chance to make a frank discussion, such as we are doing now. We could not very well, in that limited time, draw him out, and just find his exact mind. His directions are clear cut, and we say we believe they are very sincere; and we are just trying to get a sort of a supplementary statement from you on that, which would throw more light on the stand of the Government; we thought that you had that authority.

DR. SCOTT: Well, no; the phraseology shows that I have not got it; he says that he does not expect me to make a decision or to say anything, but report to him. It is towards the close of his speech. But it is perfectly clear that we were to have a roundtable conference; following the lines of his sentence which I have just read. And it is clear from the context that that was in his mind, that we were here to discuss details.

On p. 53 he said, "Dr. Scott will have an opportunity of discussing the matter with the Provincial Government in the meantime, and you will have the opportunity of discussing the matter with your people, and then you can sit in and see how near you come to being unanimous about what will be satisfactory, with it being understood, of course, Mr. Scott will have to refer the decision of the Committee to the Government, as no doubt you will, after you have discussed it, with your people, but I do urge that representatives of the Federal Government and your people get together

as quickly as possible. I cannot see that we have any separate interests." Now there is the whole thing in a nut-shell; and we must do that or nothing.

MR. KELLY: Oh yes, we do not argue the point at all.

DR. SCOTT: I think that clears up the function of the meeting.

MR. KELLY: We were just simply trying to get a little light on some things that were not clear in our minds; it is not that we are trying to dictate our end of the agreement.

DR. SCOTT: Oh yes; I do not think that for a moment.

MR. KELLY: We were anxious to get as much light as possible on the situation.

DR. SCOTT: I shall be highly pleased to throw any light on any subject I can, by way of any explanation, so far as I am able to do. But as to making representations for the Dominion Government on a matter of policy, I cannot do that. The Minister himself has given a pronouncement of policy that he is anxious to carry out.

MR. PAULL: There are other matters which were not dealt with by the Royal Commission, which are of paramount importance to the Indians; such as fishing, water rights, and other things, we note, that have not been dealt with in the report of the Commission. And we were afraid that if we jeopardised our standing we would be in no position to raise these matters, which are of great importance to the Indians in British Columbia. That is our position; and that is why we are anxious in this matter; and that is why Mr. Kelly is asking these questions.

MR. KELLY: Once again, do you concede us this, that although our position is very well known to you, the Indian people of British Columbia have made it plain on very many different occasions, such as when delegations went to Ottawa and waited upon yourself, and upon Cabinet Ministers; yet, somehow, we feel, once again, as this is the record which is kept, we expect for future reference, <sup>that</sup> you would permit us to define our stand along constitutional lines---which may not take long---after that is done, then we will be in position to say to you, now having done that, we will proceed to discuss the details of settlement, as the Minister has asked us to do.

DR. SCOTT: Well, what form would that take? Who is going to make the position clear?

MR. KELLY: Well, since it is a constitutional question, we would like Mr. O'Hearn to do that.

DR. SCOTT: How long would that take? Because you have done it a good many times already, and I do not see any good purpose to serve by doing it again.

MR. KELLY: We are of the same opinion as you are; we do not want that to take the major portion of our conference; but it may not take more than one hour, a connected statement clearly made; and then having the stand definitely made, I think we will feel quite safe to proceed; for any time in the future, if it should be brought up against us, saying that now you have made certain claims; we would like to say that we have made such claims dependant upon the stand that we made at that time.

DR. SCOTT: I should be very glad to accede to your

wishes in this respect, except that I do not want the time of the conference taken up; and the record loaded with a lot of argument which might be useless. But if Mr. O'Meara gives a reasoned statement within an hour---I think it would be quite possible to do that.

MR. O'MEARA: Yes; speaking for the Committee, we are not desirous of occupying the major portion of this conference in making that statement; we are desirous of having the statement presented in a brief, clear and concise way. Once that is done we will be through with that part of it. That is my idea in asking that, Dr. Scott.

DR. SCOTT: I think Mr. O'Meara might proceed now.

MR. O'MEARA: Gentlemen of the Indian Department, may I ~~not~~ say at once that I do not regard this as a debate; I do not regard it, with all deference to the Chairman, as entering upon an argument with the Indian Department; I do regard it as simply a statement, or simply an explanation, intended to show as clearly as possible, and as briefly as possible, just upon what ~~grounds~~ grounds the allied tribes actually rest.

The first event is and always has been a settlement of this whole land trouble,---but a real settlement of that trouble. I think the best way in which I can put that before you, Gentlemen, is to read the material parts from the despatch of the Imperial Minister, which in July 1911 was sent to the Governor-General of Canada,---and sent to each of the two Governments. I read only the material parts of it. It is dated the 6th of July, 1911;

"As your Ministers are aware, this question

of the position of the Indian land claim in British Columbia has been for some long time pressed upon the attention of my predecessors and myself, and lately I have been asked to receive a formal deputation on the subject from sympathizers with the Indians in this country but have not done so. I have, however, given two interviews to the Rev. Arthur E. O'Meara, as representing the 'Friends of the Indians' in British Columbia, at the first of which Sir Wilfred Laurier and Mr. McBride were good enough to be present, and I understand that subsequently they discussed the matter together. At the second interview, at which they were not present, I told Mr. O'Meara that he and his friends must again approach the Governments of British Columbia and Canada, and that I could hold out no hope of intervention under existing circumstances on the part of the Imperial Government.

"I should be glad if you will be so good as to convey the substance of this despatch to Mr. O'Meara and his friends, and to state that it is my wish that they should take this course. Mr. O'Meara's address is 2307 Cadboro Bay Road, Sub-Post Office No. 1, Victoria, B.C.

"At the same time I desire to express my earnest hope that the Provincial Government or the Dominion Government, or both, will find it possible to take early steps to arrive at an equitable solution of this troublesome case."

I beg to point out that the Minister faced the matter, and recognized that it was a troublesome case; and then he faced the necessity of bring-

ing about a solution] and an equitable solution of the controversy.

That may be said to sum up the position that is taken today,—as it has always been taken by the allied Indian Tribes of this Province. That is the statement of Mr. Harcourt, & Secretary of State for the Colonies, of the possibility of an equitable solution of this troublesome case.

I go on from that, to put before you, Gentlemen, what might be called the particulars of settlement, for which the allied Tribes stand. The main principles underlying the equitable settlement are clearly shown by the statement which, in December 1917, the interior Tribes unanimously adopted, and sent to the Prime Minister of Canada, the Minister of the Interior, the Governor-General, and the Secretary of State for the Colonies; from which the following words are quoted:

"Now we declare that until either of the Governments shall have conceded the tribal ownership of our Territories claimed by us and upon the basis of such ownership shall have adjusted our foreshore rights, fishing rights, hunting rights, water rights and all other general rights, or the issues contained in the Nishga Petition and all other issues connected with them which require to be decided, shall have been decided by the Judicial Committee and in light of the judgment of that Tribunal all our general rights shall have been adjusted, we are unanimously and firmly determined to stand with the Nishga Tribe and not to consider the Report of the Royal Commission or any of



the findings of that Report or any recommendations which may have been made by the Royal Commission."

The position upon that matter, which is taken, as shown by those quoted words, with regard to the findings of the Royal Commission, was in fuller language set out in a communication which on the 27th of May, 1918, the London agents of the Hishga Tribe addressed to the Lord President of His Majesty's Privy Council. The position which was then taken in the Privy Council by the Allied Tribes, with regard to the report of the Royal Commission, which will be found was approved by the statement of December 1919.

Having thus indicated the principles to be applied, I proceed to state what seems to be the necessary order in which the chief matters should be discussed and dealt with.

No. 1. Territorial land rights of the Indian Tribes as main basis of all dealings and all adjustments of Indian land rights, and other rights which shall be made.

No. 2. Foreshore rights, fishing rights, hunting rights, water rights, and other general rights to be adjusted and settled in accordance with the territorial land rights.

No. 3. Lands <sup>to</sup> be reserved, and related matters, including the findings of the Royal Commission.

And, No. 4. Compensation to be paid in respect of lands to be surrendered, and other matters.

Then, what I present to you, Gentlemen, is, that the plan of settlement of the Allied Tribes which will be found embodied in the book of December 1919, is a plan based upon these principles:

That a statement was requested by the Premier of British Columbia; that statement was prepared in reliance upon the Premier's assurance that it would be seriously dealt with and fully discussed between the Province of British Columbia and the Allied Indian Tribes. That discussion has not yet occurred.

I ask, briefly, attention to the explicit words of the first condition of the Allied Tribes, which will be found set out on p. 11 of the printed book; it says that this is to be the main basis on which all dealings and all adjustments of Indian land rights shall be made. These words were meant by the Allied Tribes seriously.

The next question to which I wish to ask attention, not at any length, but rather in a brief way, is this, what is this basis upon which the Allied Tribes take their stand? I wish to read one short paragraph of the statement which I had the honour of placing in the hands of the Prime Minister of Canada on the 31st of May last year, a statement of the position of the Allied Tribes:

"The Allied Tribes respectfully submit for consideration of the Government of Canada their view that the time has come for altogether abandoning the plan of making an arrangement between the two Governments and calling it a settlement and for seriously endeavouring to make a real settlement, one based upon actual facts and actual rights and brought about by actual negotiation."

It will be found officially recorded, and officially proved, that the basis of the settlement embodied in the McKenna-McBride agreement and the report

of the Royal Commission, is the denial of the territorial land rights of the Indian Tribes. The basis for which the Allied Tribes stand is the recognition of the actual rights of the Tribes.

Now then, what are these actual rights? In order to put that before you, gentlemen, I wish to put it in a somewhat fuller way, what is already put before the Governments in this statement. And as the matter is of importance, I wish to use this as if I were speaking—I want to be absolutely accurate, and I say, the Allied Tribes submit that the proclamation issued by King George III, in the year 1763, the report of the Minister of Justice, which was presented on 19th of January, 1875, and was approved by the Governor-General-in-Council on the 23rd January, 1875, and the judgment of their <sup>Lordships</sup> ~~lawyers~~ of the Judicial Committee of His Majesty's Privy Council, delivered in the Southern Nigeria case, *Amodu Tijani v. Secretary of Southern Nigeria*, reported in the Law Reports, Appeal Cases, in 1921, Vol. 2, p. 399, may well be accepted by the two Governments as containing a sufficient statement of the territorial land rights claimed by the Indian Tribes of British Columbia; and that these authoritative documents may reasonably <sup>be</sup> established as the main basis of all dealings between the Governments and the Allied Tribes, and all adjustments of Indian land rights and other rights which shall be made.

The Allied Tribes claim that under the proclamation, the report, and the judgment which have been mentioned, each Indian Tribe of British Columbia has,

in respect of the whole territory of the Tribe and all its natural resources; full beneficial ownership; national or sectional in character, and constituting an interest in the lands of the Province within the provisions of Sec. 109 of the British North America Act.

I have simply to add to that this brief remark, that while I am in a sense responsible for stating the tribal ownership claimed by the Allied Tribes, I have used almost every word of what I have just placed before you, gentlemen; as taken from one or other of these three authoritative documents, the Proclamation, the Report of the Minister of Justice and the Judgment of the Judicial Committee in the Southern Nigeria case. It is simply based upon those three documents.

Now, gentlemen, I point out that all the other conditions of the Allied Tribes are based upon, and intended to be based upon that fundamental condition. I go on from that to mention what seems to me some various obstacles now standing in the way of settlement, which, as I respectfully submit, should be fully faced and dealt with.

The first of these is the McKenna-McBride agreement. And, first, I would make a few remarks regarding that as an agreement dealing with lands; and, suppose for the moment, gentlemen, that it does not contain that troublesome language; "Final adjustment of all matters"; I deal with it as an agreement regarding lands. I point out that the logical <sup>defect</sup> ~~fact~~ of it is that it is an agreement between the two Governments, in other words, two of the three parties interested--the Indian Tribes are not parties to that agreement. And the Indian Tribes

claim aboriginal title in a fuller sense than has been sometimes suggested. With regard to lands, they claim that they have a title to have additional lands, such lands as are adequate for their needs. They claim that they should not have to rely upon the offer and goodwill of the Province of British Columbia; but that they have the right to be negotiated with, and to have the additional lands which they require.

In the year 1875 Lord Dufferin came to this coast, and in an intelligible address declared, to fail to recognize the territorial land rights of the Indian Tribes of British Columbia was an initial error—that is the way he summed it up. I beg to point out that that error has persisted to this day.

And while I fully recognize that what the Allied Tribes have to come up against is mainly the position that British Columbia has so clearly sustained within the last year or so, yet, one also has to face the position, which has been taken by the Government of Canada on this matter; that position has been that the McKenna-McBride agreement was based upon the ignoring of that title.

Now I am not simply giving my own views, but referring to what will be absolute proof; I am going to read the material words from a most important paper; the opinion of the Minister of Justice of Canada, handed out in December, 1913;

"I may remind you that it was the declared policy of our predecessors in office to submit to the Courts for decision the question of the aboriginal title which is the subject of this Petition and has been for some years agitated in British Columbia.

"The agreement of 24th September, 1912, between representatives of the Dominion and British Columbia, which was approved by Order-in-Council of 27th November following, appears to evince a departure from the policy of the late Government. It is recited in the preamble that it is desirable to settle all differences between the Governments of the Dominion and the Province respecting Indian lands and Indian affairs generally in British Columbia, and upon this recital the stipulations or proposals of the agreement are said to be agreed upon as a final adjustment of all matters relating to Indian affairs in the Province. The agreement, while it provides for the ascertainment of the various Indian reserves and the disposal thereof or confirmation thereof of the titles in the manner therein provided, makes no reference to the aboriginal title, and it may be considered that it would be incompatible with the intention of the agreement that the Dominion should maintain cause of the Indians in respect of the aboriginal title, seeing that this title is ignored by the agreement and that the proposals or stipulations of the agreement are declared to have been agreed upon as a final adjustment of all matters relating to Indian affairs in the Province. I think, therefore, that the policy of the Government in relation to the matter is a preliminary question to be determined."

Now, gentlemen, I humbly, respectfully submit that with the language of this agreement which is lying before us, and with the authoritative opinion of the Minister of Justice, pointing out that it is intended to be a final adjustment of all matters relat-

ing to Indian affairs, the Allied Tribes simply must face that situation, and understand that that was the intention of both Governments.

I wish to refer to a few words used by their Lordships of the Judicial Committee of the Privy Council, which have a most material bearing upon this matter, and I humbly submit will be found to be conclusive reason for attaching importance to this danger. The first is to be found in the *Burrard Power Company v. The King*, found in *Law Reports*, P.C., 1911, p. 94: "Their Lordships are of opinion that the judgments of the Courts below are right. The grant by the Provincial Government of public lands to the Dominion Government undoubtedly passed the water rights incidental to those lands."

Then, on the same matter, I refer to the case generally known as the *Fisheries Case*, reported in 1914 *Appeal Cases*; I read two portions of that, the first to be found on p. 166:

"Their Lordships can see nothing in the judgment above referred to which casts the slightest doubt upon the conclusion to which they have come from a direct consideration of the terms of the grant itself, namely, that the entire beneficial interest in everything that was transferred passed from the Province to the Dominion. There is no reservation of anything to the grantors. The whole salus of the belt lying between its extreme boundaries passed to the Dominion, and this must include the beds of the rivers and lakes which lie within the belt. Nor can there be any doubt that every right springing from

the ownership of the solum would also pass to the grantee, and this would include such rights in or over the waters of the rivers and lakes as would legally flow from the ownership of the solum."

The other words I read are from p. 167:

"In the present case, therefore, their Lordships entertain no doubt that the title to the solum and the water rights in the Fraser and other rivers and the lakes so far as within the belt are at present held by the Crown in right of the Dominion, and that this title extends to the exclusive management of the land and to the appropriation of its territorial revenues. It remains to consider the consequences as regards fishing rights. These are, in their Lordships' opinion, the same as in the ordinary case of ownership of a lake or river bed. The general principle is that fisheries are in their nature mere profits of the soil over which the water flows, and that the title to a fishery arises from the right to the solum. A fishery may of course be severed from the solum, and it then becomes a profit à prendre in alieno solo and an incorporeal hereditament. The severance may be effected by grant or by prescription, but it cannot be brought about by custom, for the origin of such a custom would be an unlawful act. But apart from the existence of such severance by grant or prescription the fishing rights go with the property in the solum."

Gentlemen, I submit two facts are quite clear; first, according to the decision of their Lordships of the Judicial Committee, these general rights claimed by the Indian tribes of this Province rest upon their territorial land rights, and cannot be separated and should not be separated for one moment; and the second fact that I say is perfectly clear is that the McKenna-McBride Agreement seeks to sweep away all these rights---and deliberately sought to cede them away by using the



words, "final adjustment of all matters relating to Indian affairs", I put that in the briefest way; but I submit that is very very clear.

I pass on from that to say a few words about the law known as Bill 13, as another obstacle in the way of settlement. And what is the true character of the law known as Bill 13? That is also a matter of some special importance.

DR. SCOTT: Would you like to have on the record the proper title of the Act—10-11 George V, Chap. 51.

MR. O'MEARA: In order to make quite clear what the true character of the law known as Bill 13 is, I ask, gentlemen, your special attention to the fact that Article 13 of the Terms of Union, the McKenna-McBride agreement, the Order-in-Council of June 1914, the report of the Royal Commission, and the law known as Bill 13, are all parts of one connected whole. An examination of all these documents, as a connected whole, will, as I submit, make perfectly clear that the objective of the law known as Bill 13 was, by the exercise of the claimed powers or assumed powers of Parliament, to put an end to aboriginal land and other rights of the Indian Tribes of British Columbia. There, again, I just put the matter briefly. And it can be substantiated I think clearly upon examining the provisions of Bill 13. Bill 13, in most explicit language authorizes the Government of Canada to carry out, and to carry into effect the McKenna-McBride agreement; and when we come to the McKenna-McBride agreement we find that its intention was that the carrying out of it should be a final

adjustment of all matters relating to Indian affairs.

Now, gentlemen, I wish to say a few words about the position taken at the present time by the Government of British Columbia; and in order to do that I read a few words from my own report of an interview had with the Minister of Lands on the 22nd of May last—these are the principal remarks of the Minister: "We are carrying out Article <sup>13</sup>~~15~~ of the Terms of Union, that governs everything".

MR. SCOTT: Excuse me, are these his recorded words, his written words?

MR. O'MEARA: No, my own report.

DR. SCOTT: You better make that clear, I think, in the interests of the Minister.

MR. O'MEARA: Yes, yes it is my own; it is a note made by me within an hour after the interview passed, from my own memory; and of course I am responsible, gentlemen, for this—I do not think there would be any difference between the Minister and myself as to what occurred. "We are carrying out the agreement of the Government of Canada. In pursuance of that agreement, that is McKenna-McBride Agreement, we intend dealing with all Indian affairs in the Province by adopting Report of Royal Commission. Only one modification of any account will be made, by granting grazing lands. There will be a few other slight modifications,—they will not be of any consequence. The statement made in first paragraph of letter."

And then at a later time of the interview the Minister made these remarks: "This Government understands that the McKenna-McBride agreement is

is to have full effect. The carrying out of that Agreement is to be a final adjustment of all matters. The position taken by the Province is that Canada is Trustee for the Indian Tribes, and that absolutely all the obligation of the Province is to arrive at agreement with Canada.

"The Province claims that, when the two Governments have reached agreement, all power of Secretary of State for Colonies will be at an end.

"As result of passing Orders-in-Council adopting Report, all foreshore rights, fishing rights, hunting rights and water rights, all aboriginal rights whatever, will be finally dealt with. After Orders-in-Council shall have been passed, the Indian Tribes will have just the land rights and other rights which will be conferred upon them by the McKenna-McBride Agreement finally adopted by such Orders-in-Council, those rights and nothing more."

Gentle/<sup>men</sup> I regarded that interview as one in which the Minister was exceedingly frank in stating the position taken by British Columbia. It is a frank statement to which the Allied Tribes have to give very serious attention, because it entirely confirms the view that it was intended by the McKenna-McBride Agreement to sweep away all Indian rights in this Province.

Now, Gentlemen, we have come to a rather crucial question. The Minister of Lands said, with great emphasis, Article 13 governs everything. Now I am inclined to concede that if Article 13 of the Terms of Union governs everything, to a very

large extent the two Governments have been proceeding along perfectly sound lines in everything that has been done; because the McKenna-McBride Agreement was the carrying out of the provisions of Article 13. And the now rather famous Order-in-Council of June 1914 was simply the carrying out into practical effect of the provisions of the McKenna-McBride Agreement, as I submit. And the Report of the Royal Commission was the carrying out of all that. And now the Governments do the final act by passing the Orders-in-Council. I am inclined to think that, subject only to the one point that the Secretary of State for the Colonies has power; that the Governments have been proceeding along perfectly sound lines. But the absolutely crucial question is, gentlemen; whether Article 13 does never that; and I would wish to say a few words about that.

If the Allied Tribes are asked to give the answer to the question, Does Article 13 govern everything; they give a most emphatic answer, No. What then, according to the view of the Allied Tribes does govern everything? The answer is, The British North America Act governs everything, and governs Article 13 as well as everything else.

Now the Minister of Interior of the year 1874, took that same view of the situation; and in order to prove that I am going to read a few words from the letter which he sent on the 2nd of November 1874 to the Government of British Columbia. It is a most important, weighty letter, but I am going to read just the most material parts of it. These

are the Minister's words:

"The policy foreshadowed in the provisions of the 13th clause of British Columbia Terms of Union is plainly altogether inadequate to satisfy the fair and reasonable demands of the Indians. To satisfy these demands, and to secure the good will of the natives, the Dominion and local Governments must look beyond the terms of that agreement—and be governed in their conduct towards the aborigines by the justice of their claims, and by the necessities of the case."

I desire to emphasise that declaration of the Minister of the Interior, in the strongest words at my command. He declares that the Governments must look beyond the provisions of Article 13, and he declares that they must be governed by two things, the justice of the claims made by the Indians, as the Minister of Justice declared in his opinion; and, secondly, the necessities of the case. Therefore, according to the Minister of the Interior, of 1874, Article 13 does not govern them.

Now I just briefly refer, in the next, to the very strong opinion of the Minister of Justice given in the year 1875, declaring most explicitly, and explaining at length, the fact that the Indian Tribes of British Columbia have territorial land rights; and that these rights are an interest in the lands of British Columbia. That is my second proof that the British North America Act governs, and not Article 13.

I go on briefly to refer to the two Sections of the British North America Act, which, as I submit,

really govern everything. These Sections are 109 and 146. It happens that in answer to a question raised by the present Minister of Interior at Ottawa, in May of last year, I put this matter in a brief form, and I will read from what was then stated to the minister and put in his hands:

"As to Article 13 of the Terms of Union, I answer briefly the suggestion that Article 13 should be regarded as a Statute. Primarily it is one term of an agreement between British Columbia and Canada upon basis of which British Columbia entered Confederation. It became fully effective by virtue of a statute, the BRITISH NORTH AMERICA ACT, Section 146 of which made provision for admitting British Columbia. By Order-in-Council of the Imperial Government passed under Section 146, British Columbia was admitted. By the explicit language of Section 146 the arrangement between British Columbia and Canada embodied in Article 13 which thus became effective was made subject to the British North America Act. Under Section 109 of that Act, as explained by the Minister of Justice in Report made and adopted by the Governor-General-in-Council in January 1875, the territorial rights of the Indian Tribes were expressly preserved. The Allied Tribes contend that Indian title was thereby made part of the Constitution of British Columbia and is not taken away or in the slightest degree prejudicially affected by Article 13 which is merely an arrangement between the two Governments."

I pass on from that to speak briefly of the matter of the power of the Secretary of State for the

Colonies, which I submit is a matter of importance. Gentlemen, I put this matter before you by reading the most material parts of a memorandum which I had the honour of preparing and placing in the hands of the Prime Minister of Canada, the Minister of Interior, and the Minister of Justice, in the month of February, 1918. These are the words dealing with the power of the Secretary of State for the Colonies:

"I next ask attention to a principle embodied in the Terms of Union, namely, that in the matter of lands to be reserved for the use and benefit of the Indian Tribes of British Columbia the Secretary of State for the Colonies is to have the final word. It would appear to be the intention of the McKenna-McBride Agreement to put an end to this power of the Secretary of State for the Colonies. I do not at present discuss the important question whether any particular Government of Canada can by entering into an agreement with a particular Government of British Columbia put an end to this power. I ask however that in this connection special consideration be given to what I venture to think a most important matter. The theory upon which the McKenna-McBride Agreement was constructed would clearly appear to be that, when the Terms of Union were approved by Order-in-Council of her late Majesty Queen Victoria the constitutional effect of so approving Article Thirteen was to withdraw from the Indians of British Columbia the protection and benefit of the provisions of the Royal Proclamation of 1763 and to give instead the protection and benefit of the provisions of Article Thirteen. Of

course I do not admit any such effect of the Imperial Order-in-Council. If however it be assumed that the Imperial Government intended the Order-in-Council to have that effect, it must surely be assumed also that such a grave step was taken on account of the power conferred upon the Secretary of State for the Colonies. I submit therefore that only the most conclusive proof that a proposed final arrangement between the two Governments regarding lands to be reserved adequately provides for the present and future needs of the Indians and is in every other respect an equitable arrangement <sup>that</sup> would justify the Government of Canada in adopting it.

"It is important to point out that while the McKenna-McBride Agreement provides no method of dealing with lands disposed of, there has been, as above stated, ever since British Columbia entered Confederation a method of dealing with all lands required for Indians, namely reference to the Secretary of State for the Colonies. This method would appear to be today available for dealing with all lands so required which the Province may not be willing to provide."

Now, gentlemen of the Indian Department, may I in all seriousness ask the question with a view of the whole present position of affairs, has the power of Secretary of State for the Colonies conferred by that provision of Confederation been forgotten, or has it been ignored; or is the view of the authorities at Ottawa that the effect of the McKenna-McBride Agreement was to put an end to that power? I raise



that question. And at a later stage, perhaps, you gentlemen will give some answer to that.

There is a rather grave fact, to which I wish to draw attention; and on bearing upon that, and that is, that while the general report of the Royal Commission gives an interesting historical sketch, and among other things sets out what purports to be the provisions of Article 13 of the Terms of Union, the Commissioners set out all of the provisions except the power of the Secretary of State for the Colonies; they simply deliberately cut that out, although there it is in Article 13. If there is any doubt about that, I refer to p. 15, and p. 16,—and it will be found that all the words of Article 13 giving power to the Secretary of State for the Colonies are simply omitted. And I simply add this remark, that all steps since taken have been taken on the assumption that the power of the Secretary of State for the Colonies does not exist. And very specially does that remark apply to the whole dealing that there has been with what you gentlemen have described as the supplemental list. There were applications seriously made for additional lands, and they were supposed to be placed before the Governments; and there was a power to refer the whole matter to the Secretary of State for the Colonies; and, as I submit, when the Government of Canada holds that power, it also holds a very important trust for the exercise of that power; and yet we hear no word whatever as to a reference of that matter to the Secretary of State for the Colonies.

All that remains, gentlemen, is for me to say a very few words about what might be called the position of the British Crown, at the present moment in relation to the Indian land controversy and all the rights of the Indian Tribes of this Province. May I respectfully point out that it is quite established as a matter of constitutional principle that the Lieutenant-Governor of a Province is as truly a representative of the British Sovereign, as is the Governor-General of Canada. The Lieutenant-Governor of the Provinces represents His Majesty in all matters of Provincial Government and administration; the Governor-General represents His Majesty in all Federal Government and administration. Each is in the fullest sense a representative of His Majesty the King. Now then, just in what position has all these provisions placed His Majesty the King at the present moment? At Victoria his representative sanctioned and has signed an Order-in-Council deliberately intended for the purpose of carrying all this through as a final dealing, under the McKenna-McBride Agreement. At Ottawa His Majesty's representative is holding back that action,—and, as we venture to trust, holding it back until there shall be a real and serious dealing with the rights of these Tribes and a serious attempt to arrive at a settlement. Then what about His Majesty himself? Now I think that in view of the assurances given a few days ago by the Minister of the Interior, we are justified in regarding the position in Ottawa in that way; and I ask, what about His Majesty the King, himself? His Majesty the

King, through his representative, the Duke of Connaught, in the month of September 1916 addressed to myself a letter giving most explicit and definite assurance that if the Nishga Tribe were not satisfied with the Report of the Royal Commission their case would be heard by His Majesty's Privy Council; and the Nishga Tribe, on the 4th day of June last sent to the present Governor-General of Canada this lettergram which I read: "Anzac, B.C., 4th June, 1923. His Excellency, the Governor-General of Canada, Eastern Block, Ottawa. We, the Nishga Tribe in general meeting humbly ask attention to fact that Duke Connaught by letter addressed to our Counsel twenty-fifth September sixteen on behalf His Majesty the King gave assurance that if we should not agree to findings Royal Commission our petition would be considered by His Majesty's Privy Council also to fact that we sent your Excellency's predecessor statement declaring unwillingness agree to findings also fact that by letter sent Allied Tribes fourteenth May Minister Interior has shown Government Canada intends endeavouring force settlement of Indian land controversy by Order-in-Council adopting Report Commission and in view of these facts we humbly submit that passing such Order before our Petition shall have been heard by Judicial Committee Privy Council would violate Assurance British Crown and humbly ask that your Excellency do not sanction such proposed Order."

Robert Stewart      President Nishga Tribe.

David Deolan      Chairman Kincolith

Peter Calder      Chairman Greenville  
 Michael Inspiring      Chairman Aiyansh  
 Amos Gonnelli      Chairman Gwinaha."

Gentlemen, I think the Allied Tribes are reasonably entitled to assume that under these circumstances the passing of an Order-in-Council at Ottawa is held up indefinitely.

That is all that I wish to say.

The Conference here adjourned until 3 P.M. today.

Tuesday, August 7, 1923; at 3 P.M.

DR. SCOTT: We have heard Mr. O'meara's statement, and I presume it is satisfactory to you, and he has said what you wished him to say; and that is in the record.

MR. KELLY: Yes.

DR. SCOTT: Have you any suggestions as to what we should take up next?

MR. KELLY: I think, as we have declared ourselves as it were; it is now in order for us to deal with this Report of the Royal Commission. And in doing so I think it becomes evident at once that we could not exactly confine ourselves just to the reserve question; we will do so as far as we can; but, naturally, matters will be brought in as we go from one section of the country to the other.

We have not arrived at<sup>2</sup> our and dried program, but have in mind to deal first with land deeds; and later on we will take up another subject, when we get through with that.

It seems to me, as we are examining the Report of the Royal Commission, it would be just as well for us to follow it in order, as it was as the Royal Commission started. You see we can look over, first,

the Cowichan Agency; and as you know, the Cowichan people are well represented here; apart from what we may say, they can speak from firsthand knowledge of that.

DR. SCOTT: Of course we all understand, Mr. Kelly, that the Indians had a full opportunity of bringing their needs before the Reserve Commission; in the first instance the Indians were the people that were sought out to represent their needs to the Commission.

MR. KELLY: Yes, that is well understood. Our idea of course was to see what applications were made, and how much the Commission saw fit accede to those applications. Now I think we will have to be guided in this matter by Mr. Ditchburn, who is an expert on that side of the question. How much applications, for instance, were made?

MR. DITCHBURN: Well, you ask, here, what the applications were in the Cowichan Agency?

MR. KELLY: Yes; starting with one grant.

MR. DITCHBURN: There were nine applications put in for the whole agency, the Cowichan Tribe put in one, the Nanaimo Band put in one, the Chemainus Tribe put in four, and then the Cowichan Tribe, the Olen-Olen-a-lats Band put in one; the Saanich Tribe put in one, and the Seckwaka put in one; none of which were granted, in view of the fact there were no Crown lands in that Agency.

MR. KELLY: There seems to be no record of that.

MR. DITCHBURN: All the applications are here if you want them.

MR. KELLY: That is merely the confirmation.

MR. DITCHBURN: That is merely the reservations.

MR. KELLY: This report does not deal with the applications, then .

MR. DITCHBURN. No. That is the result.

MR. KELLY: I was under the impression that this schedule contained the whole thing ?

MR. DITCHBURN: No; schedule of reserves only, both new and old reserves. But I understood, Mr. Kelly, that in this printed statement that the Allied Tribes submitted to the Government of British Columbia in 1916, that you had gone all through this report. This statement of yours says, "We have now before us a Report of the Royal Commission, and are fully informed of its contents; so far as actually for the purpose of the statement the report has been carefully considered by the Allied Tribes, at several meetings, and subsequently by the Executive Committee of the Allied Tribes.."

MR. KELLY: Exactly, that is true enough; but not in every detail; for instance, what we meant by that was this, that there were a great many applications made, and the great majority of those applications were not entertained seriously by the Commission. And also it revealed this fact, that we have pointed out before, that the Royal Commission could not very well claim to be in position to have power to bring everything to a final settlement, when they did not pretend to deal with everything. They simply deal with just the one matter, not these additional matters. That is what we meant by that. We did not mean that we had examined every data that

was granted. That was rather an exhaustive study to make on that side of it. But when we examined the principle of the thing, it was far from what we thought it would bring the whole question to a settlement.

MR. SCOTT: Well, of course it seems to me unfortunate, because how can we take it now? It would take several months now to make a detailed examination of it.

MR. DITCHBURN: That is what the Committee was supposed to do afterwards, anyway.

MR. KELLY: Which Committee?

MR. DITCHBURN: The Committee that you were chairman of; that is, Mr. Reid and Mr. Paull with Mr. Teit. That was just the purpose of your appointment.

MR. PAULL: We submitted, Mr. Ditchburn, I think, the applications by the Indians in this Agency. But as a matter of fact we were informed by yourself that it was impossible to get any new reserves in the Cowichan Agency, by virtue of the railway grant.

MR. DITCHBURN: Yes, all the land within the Cowichan Agency belongs to the B. & N. Railway Company outside of the reservations.

MR. PAULL: The report of this Commission did not give any new reserves?

MR. DITCHBURN: No, not in that Agency.

MR. PAULL: But there were reductions---out offs?

MR. DITCHBURN: Yes; you find them there, if you look.

MR. PAULL: Now, can you tell the Committee here if you have confirmed the out offs by the Commission?

MR. DITCHBURN: Yes.

MR. PAULL: Confirmed them all?

MR. DITCHBURN: No, not all; all but the one up at

W.R.D.

Courtenay. If you look through this <sup>schedule</sup> ~~survey~~ you will find that the one up at Courtenay, the Pentledge reserves marked out off is retained by the Indians.

Here is the schedule; I read that before; your chairman knew exactly all the confirmed reserves, the new reserves and the cut offs, all as amended.

MR. KELLY: Well, once again, I think you admit at once that to examine all the reserves in detail would be a matter of months.

DR. SCOTT: Well, we expected that you had done that previously, you see, and that is the reason you had these reports; and we thought that you understood now, as you state now that you do understand the contents of the report, and that you are able to lay your finger on the points that do not suit.

MR. KELLY: We only make that in a general way. For instance, the Cowichan people—the Chief is here, and several others—applications were made for additional reserves; and it was simply impossible to grant those applications; therefore that was dissatisfaction. Now that is one case in point. The Cowichan people have thought, and in meetings the tone has always been, we have not enough land, our cattle are being seized all the time.

DR. SCOTT: What representations do they wish to make? That they wish those lands acquired?

MR. KELLY: When it comes right down to that particular question, I think it is only fair for the Cowichan representative to make a statement on that.

MR. DITCHBURN: I think it would be just as well, before condemning the Report of the Commission, you



should analyse the formation of the Commission, the powers that the Commission had. The Commission had no power to set aside any land other than public lands of the Crown.

DR. SCOTT: I think we understand that.

MR. KELLY: That is where we criticise the work of the Royal Commission. While it started out to do a certain thing, it did not have power to do it; it found out before it went very far it did not have the power to do it.

DR. SCOTT: Yes, its hands were tied, we all understand that.

MR. KELLY: That is where we criticise.

DR. SCOTT: We would like to hear from the representative from Cowichan.

MR. JOHN ELLIOTT: The grievance of our people—we are the people that first applied to the Government for more land, we asked for more land and then the Government said that the land that we were claiming by rights, that we did not have any rights. But I am going to state now how we place our grievances on the reserve, as shortly as possible. We have not got land to keep our stock on; there are people there with only two acres of land, and some three; some are fortunate enough to have eight acres of land and they are doing very well. And we used to get along by putting cattle out on the public roads. We cannot do that now, they are put in the pounds. And if we say anything to the white people about it we are told we should keep our stock and cattle on our old land and then we would have no trouble.

And we are told that we have plenty of land. But when we look around on the Indian reservations, and that is our land; there are a lot of white people occupying that land. Our people are under the impression that the land the white people are occupying is their land. If you were talking the same way that these people talk; and you were told you had plenty of land, wouldn't you naturally think that the land the white people were occupying belonged to you? That is the tendency of our people have. And another thing, again, they tell us that our reservation is very large, that we have wild land as it were that we could fence in. Why the eastern portion of our reserve, there is a great big mountain, nothing but solid rock; there are a few trees growing on it; anything that would stay on it would starve to death. I don't know how the wild animals live on it, but there are some there. We have sheep on that, and they are skin and bones; this time of the year the grass is all gone. And not only that, the access to that mountain is all fenced in by white people; our cattle cannot get on that mountain, the only trail is fenced in by white people. On the western end of the reservation there are big trees growing there; it would take a man of means to cultivate that land; I think it would take about five hundred dollars an acre to clear that land; and we have not got the means, we have not got the money. White people tell us we are shiftless kind of people; that we went work as white people. Honourable gentlemen, I leave it to you, how can you do anything more unless you

have got money? You have to have money before you can do anything. And the white people will never give the Indian people any, or pay us for anything; they never paid us anything for the land; they never paid us for the land or rights; they pay us nothing; the only way we can get money is to go away on the American side, to get what little money we exist on. So that our hands are tied. It is not our fault. That is the grievance of the Cowichan people today.

Well, we asked for this land; we want more land. And as I heard you Honourable Gentlemen state there is no more land in that locality to be got for us---we think these white people on our reserve, they have no legal right to the land, they are not Indians, they are not from our people---of course they are people from the same nation, but a different nationality, they are living amongst us, we did not give them any authority to come there. And by the statement of the white people, by the way they talk to us, I do not see that they have any legal right to the land. If we have got authority to go away from the reserve, why not the white people who are the last there? This is the way our people look at it.

MR. KELLY: The Cowichan people made nine applications here; one of the nine was a departmental matter, and all of these were not entertained---not even entertained by the Commission; you see. Well, that is where we criticise, of course, the work of the Commission. Its hands were tied before it started; and it seems to me it started to undertake to do a

thing that it did not have powers to do. Surely the Province was aware of that.

DR. SCOTT: It did not have power to fully satisfy, but only insofar as Crown lands could be furnished for the purpose. Now we understand there were no Crown lands in the Cowichan Agency from which those reserves could be granted.

MR. KELLY: Then it appears, just as I have pointed out in our statement at Vancouver, where Crown lands were not available the Indian was doomed to be disappointed, before he made his application. Is there any redress for that?

DR. SCOTT: Well, that is a matter, of course, which will come before the Minister when he reads these notes. I cannot say whether there is any redress or not.

MR. KELLY: Do I understand you, Doctor, to say this, that there is no possibility of some of these applications being granted now?

DR. SCOTT: No, I say no such thing. I am here to get facts, and I am going to lay them before the Minister.

MR. PAULL: I have been pretty well conversant with the Cowichan people here; and it was made known to them when I was around last year that it was practically impossible for them, under the conditions that prevailed, to get any land at all—not one acre of land. That existed. Now, no matter if their applications for additional lands were feasible they could not receive one acre. Now according to the McKenna-McBride Agreement, Clause 8, "Until the final report of the Commission is made, the Province

shall withhold from pre-emption or sale any lands over which they have a disposing power and which have been heretofore applied for by the Dominion as additional Indian Reserves or which may during the sitting of the Commission, be specified by the Commissioners as lands which should be reserved for Indians."

In this Agency there was not an acre of land that came within that scope. Before the Indians of the Cowichan Agency can make applications for additional lands, those clauses that are in their way will have of necessity to be removed. Now the aboriginal title to those lands had not been ceded, when that land, the southern half of Vancouver Island, was granted to the Railway. I don't know if the Indians got any concessions on that, but it is not within their knowledge that they did. Now, when that land was granted to the railway people the Indians lost the chance of ever getting any more lands, no matter how emphatic Article 13 was, in the Statute Books of Canada, — they could not get an acre of land, on account of that Crown grant to the railway. Now some submission to that must be made, because the Cowichan people according to the Report of the Commission, and according to ~~the~~ our own observations are quite industrious, and they are deserving of more land, and they will require more land in time to come. Would it be the proper time now to place the views of this organization in existence in British Columbia, as to those treaties that were made between some Tribes of this Island and the Hudson Bay Company?

DR. SCOTT: Well, I think your counsel ought to have

dealt with that this morning. These questions do not appear to me to be practical. I do not know that the views of yourselves on a matter of legal interpretation are going to be of any value to us. We are trying to deal with one subject, and Mr. Paull suddenly throws in another subject—we will never get anywhere.

MR. PAULL: The Saanich people are included in the Cowichan Agency.

DR. SCOTT: Yes, I am aware of that.

MR. PAULL: And it is claimed that they have surrendered everything; that they are done. They made a treaty seventy years ago. Now, there is an Indian living here today that was alive when Mackay was negotiating with the Indians, and he states emphatically that no such an understanding was reached between the Saanich Indians as stated in the Treaty; that no such thing ever occurred—that be the Chief, David Isalak. Now I received a letter from the Chief Inspector to the effect that these treaties were valid, and recognised as legal, constitutional, and everything. We do not debate on the legality of it, but the Indians say that no such a thing ever happened. Now, if the Indians agree that they have made a treaty before, then it is impossible for them to receive any more land. But the Royal Commission acted on their authority and took away some of their belongings or holdings, some of their reserves—of the Saanich people; also the Seeks.

MR. DITCHBURN: What did they take away from the Saanich people?

MR. PAULL: I think they took away—I don't know that it came under the category of cut off, but there was an island there that they gave to be a sanctuary for seagulls, I think.

MR. KELLY: Well, gentlemen, I respect very much the point advanced by my friend Mr. Paull, and still think that; but I agree with Dr. Scott, it is a new matter. The treaties, very important as they are to the Spanish people, I think we should deal with them under a separate head, that is when the time comes; with the treaties that are here.

DR. SCOTT: We are not endeavouring, and I do not think that the Commission endeavoured to deprive the Spanish people of anything on account of the treaty; they didn't look at the treaty they found there; they tried to give them sufficient land.

MR. KELLY: That is the matter that we have pointed out, that, for instance, in the Cowichan Agency alone, the applications of the Tribe were not entertained. The different bands applied for land; it was not entertained. Now then, if fellows, could you expect those people to be satisfied? Those applications were once again reiterated and reaffirmed through Mr. Paull last year, and, once again, they were not entertained. That is the case in point. These are facts that we must face. We say the Report of the Royal Commission fell short; it fell short, true enough, because it did not give in this large agency, where hundreds of people are concerned, one additional acre; if anything at all it cut off certain lands; it did not give a single acre more. Now, that simply shows why we criticize the work

of the Royal Commission. Now, can that be remedied? Is there any way of overcoming that?

DR. SCOTT: That is of course a question we submit to the Minister. If you could put in concrete form your objection with reference to every Agency, and the reason for it, then it would go before the Minister, and he would see the difficulties that are presenting themselves, and why you are not satisfied. Of course I expected that this would all be done.

MR. PAULL: The reduction of 296 acres of the Che-minnis Reserve, does that stand, Mr. Ditchburn?

MR. DITCHBURN: Yes.

MR. PAULL: Well, those are one of the main objections of the people; they have no land to lose.

MR. DITCHBURN: I am not responsible for the actions of the Commission, but I am aware it was taken into consideration whether the Indians were utilizing, making full beneficial use of the lands at their disposal.

MR. PAULL: If that is the only reason that the Commission recommended these lands to be cut off, because the Indians were not using it, I do not think it is quite justifiable.

MR. KELLY: In that Agency the cut offs amounted to 636 acres---from the report here---and not a single acre of new reserves set aside. Now it is quite evident that the work of the Royal Commission did not profit the people of that band, or that Agency I should say. And in view of that, when the opportunity came that the people once again ask for those



additional lands, and it was not even entertained.

DR. SCOTT: I am disappointed in the result, because I thought you would have all these things, with all the opportunity you have had to discuss, and with the full knowledge of the Report of the Commission for some years, you would have been able, this afternoon to have codified the objections, and to state in succinct form what your objections are. With reference to this agency, the objections seem to be that the lands required are not available, but should be forthcoming from some source; and that the cut-offs are unjust as the Indians required the lands.

MR. KELLY: Yes. In that one Agency alone it has come to our knowledge that the Report of the Royal Commission takes 636 acres away, and not one acre of land granted. Now, that is what happened in that Agency, which to some extent is agricultural—that is granted; the Cowichan Agency is largely agricultural. The people that live around Duncan <sup>make</sup> may not use of all their land now, but it does not say they are not going to; they are gradually being forced to. And they have not enough land to make a living out of.

DR. SCOTT: Yes. Now I think that is all that needs be said, is it not?

MR. KELLY: Yes. You see for the whole Agency, for the Cowichan Band of Indians the per capita acreage is nine. Now that includes all lands, and as the representative from that Agency said, some of those lands are rocks, they cannot grow a single thing on them. In this nine acres per capita is included

all sorts of land. Now that is one concrete point in that particular Agency.

DR. SCOTT: You have not got sufficient lands, the lands you applied for were taken up and could not be granted, and you were deprived of land that you ought to have in the matter of our offer; that is the summary.

MR. KELLY: That is exactly what we are contending. We are not even touching the different points there, for instance, Nanaimo Band made application for a certain area of land and it was not entertained because it was not available; therefore they did not get a single additional acre. When we say an Agency, we simply refer to that particular Agency.

DR. SCOTT: You see, my difficulty is this, that there is the Report of the Royal Commission, which was elaborated after the evidence had been sought with the Indians; they sat down with the Indians in every case and asked for their requirements; and then it passed under review by the Governments; and you have considered it. We cannot sit as a Royal Commission and go into the nature of these reserves; we can only consider whether it is satisfactory, or not satisfactory.

MR. KELLY: The position that has arisen then is this, what is going to be done?

DR. SCOTT: That is of course for the Minister to say. He has to pass, or has not to pass, a certain Order-in-Council; and he wants to know before he passes it whether it is satisfactory to the Indians or not. When you ask me what is going to happen,--I cannot say what is going to happen; I am only a mode of

communication between you and the Government.

MR. KELLY: Yes. Now the other Agency which is near at hand is the West Coast Agency.

MR. JOHN ELLIOTT: I would like to say a few words on that subject. Of course our people do not like what the Royal Commission say at all; they would not accept that; they would not agree to that at all; for this reason; they were told that they had land enough; that they had plenty of land. And when our people put their grievance before the Commission, and told them their circumstances, and that they cannot raise stock <sup>or</sup> anything like that, the Commission told them they hadn't any more land; then our people when they heard the Commission's side of the affair, when they were told, you cannot take anything off the white people—they had to make farms, but where are they going to keep their cattle? They are told they cannot have any more land, and we know that the land is all occupied all around them; now our people say, here are white people on our reserve, and that these people are not right there. They want to get these white people off there. That is the object in view. we cannot get land otherwise. They think these white people have no legal right to the land on the reserve.

DR. SCOTT: All right, Mr. Elliott. Now, the West Coast Agency—haven't you got a statement prepared, Mr. Paull, to show this; you are secretary of the Allied Association?

MR. PAULL: Yes.

DR. SCOTT: Where is the statement?

MR. PAULL: We did not prepare a statement, Doctor, for the reason that we were coming into a discussion. But I submitted my report to Mr. Ditchburn on that Agency. But the same thing prevails. The people in the Numukamis object to the cut offs. The Chief is away, I think. They object to the cut offs as recommended by the Commission; the two cut offs.

MR. DITCHBURN: You say that the Numukamis Indians are against the cut off of that reservation?

MR. PAULL: Yes sir.

MR. DITCHBURN: You make that statement plainly?

MR. PAULL: I do.

MR. DITCHBURN: I will make a statement before the Committee Chief Louis of the Numukamis is in favour of that cut off, and has told me that he is; and he wanted it sold, and he wanted his money before last Christmas.

MR. PAULL: Well, I am conveying to you the information ~~such~~ as I received it last year when I was there.

MR. DITCHBURN: Is Chief Louis here now?

MR. PAULL: Yes, he is here.

MR. DITCHBURN: No, that is young Louis.

MR. PAULL: That is the man I understood was the Chief.

MR. DITCHBURN: His father is the Chief, or his uncle is the Chief.

MR. PAULL: Do you want Chief Louis to speak?

MR. DITCHBURN: If he is not the Chief, certainly not.

MR. PAULL::: I always understood that he was the Chief of the Numukamis.

MR. DITCHBURN: Louis, you remember coming into my office last year and talking about the cut off and

sale of part of Nnumkamis Reserve ?

A Yes I remember,

MR. DITCHBURN: (Through Interpreter) Ask him if he remembers saying that he wanted the land sold and wanted the money back before last Christmas ?

LOUIS: (Through Interpreter) This is the way he tries to explain it to you, that he went into your office and says, If we cannot hold on to that land, if the Government is going to cut it off, well he wanted them to pay for it.

MR. DITCHBURN: He did not put it that way, though; he said he wanted it sold, and the money before Christmas.

MR. PAULL: According to the nature of the west coast of Vancouver Island, as is well known, it is a rugged coast, arable land is very hard to get, and it is regretted by the Indians that the Royal Commission saw fit to cut off some of the most arable portions of their reserve. And in fact, I still say, again, that last year, not only the Chief that was here, but a great number of his people, objected to the cut off of the Nnumkamis Reserve.

Now, the other side, they also object to the cut off of that Sawhockey Reserve. I was right on the ground there, and that particular portion of the reserve is, generally speaking, pretty good land; there is some good timber there, and there is a falls there which in time will be, I suppose, utilized to produce electric power. But I think I represent <sup>opinion of the</sup> the majority of the members of those reserves in stating that they do not want to submit to the recommendations of the Commission to cut off

those reserves. There is a new reserve recommended by the Commission, I think it is on Vargas Island, Mr. Ditchburn; the small map does not give the exact location of it very well; but the Indians want that land on that bay, and not on the point.

MR. KELLY: All these are reported to Mr. Ditchburn in Mr. Paull's report.

MR. DITCHBURN: Yes, all included in the list submitted before the Provincial Government.

MR. PAULL: Should we reiterate those things; those demands by the Indians? Should we again stage them now?

DR. SCOTT: I should not think so; we have all that evidence before us. And if Mr. Ditchburn had been able to get the Provincial Government's Officer to agree, he would have liked to do so, because it was to his interest. I think I would like to have general objections. If the matter is thrown open again, at any time, all these matters can be gone over again. <sup>W</sup>~~We~~ have no power here to deal with locations now.

MR. PAULL: I see.

DR. SCOTT: The Vargas Island, that is the Kelsomets Indians?

MR. PAULL: Yes, the Kelsomets.

MR. KELLY: The cut offs in that Agency, recommended and confirmed, amount to 840 acres. And as we have stated generally before the Minister of the Interior in Vancouver, we would like to say here also the same thing. The cut offs include the good land, in most cases. The new reserves that have been granted;

while they would do for camping grounds, that is about all they are fit for. As for real benefit to the Indians, they do not answer the purpose at all.

Now this pre-eminently applies to the West Coast, which, because of the nature of the country, a rugged rocky coast, it should be guarded, that wherever the Indians have any arable land, that should be <sup>just</sup> held on to, and not cut off, however it might be coveted by certain parties, it should not be allowed to go through at all.

I regret very much to hear of what has happened here this afternoon, that the Chief of a certain band has been making representations to the Chief Inspector of Indian Agencies of this Province, and took another stand when one of our members appeared before that band. Of course he has explained that by saying that if the Government was going to take that anyhow, the sooner they pay for it the better. Now we do not encourage that sort of a stand, anywhere, and we regret very much anything like that happening.

Now you understand, gentlemen, that we anticipated just such a thing as that in our statement. Once again I think we are forced to confine ourselves to the statement that we have prepared; we say this, on p. 10, Paragraph 9:

"All the facts which we have above stated when taken together prove conclusively, as we think, that the per capita area of 30 acres recommended by the Royal Commission is utterly inadequate, and that a per capita area of 160 acres would be an entirely

reasonable standard. That conclusion is completely confirmed by our knowledge of the actual land requirements of our Tribes." That is just generally speaking.

Now we turn to p. 12 of that, at Paragraph 5 there;

"That adequate additional lands be set aside and that to this end a per capita standard of 160 acres of average agricultural land having in case of lands situated within the dry belt a supply of water sufficient for irrigation be established. By the word "standard" we mean not a hard and fast rule, but a general estimate to be used as a guide, and to be applied in a reasonable way to the actual requirements of each tribe."

It goes without saying, I think, that as far as the West Coast is concerned, 160 acres perhaps would not be of much use to them;—which means a great deal of rocks. I have not been to the West Coast of Vancouver Island, but I understand there are certain places where there is land; and of course, as it has happened in other parts of the Province, the arable land has been taken up by pre-emptors, settlers, and so forth. So when the Indians want land they cannot get it. That applies to the West Coast as well as any other place. So, once again, our objection is this, that in that Agency where the Indians need land they cannot get it. That applies there as it applied in the Comichan Agency. And Mr. Paull, who has been there, says that the out offs recommended are more valuable than



all the little plots that have been recommended to be set aside as new Agencies, because they consist of good land. Our stand, gentlemen, is this, that these cut offs should not be carried through.

DR. SCOTT: Yes. Well, is there anything more to be said about that Agency? What about additional lands? ~~MR.~~ Did you get any additional lands?

MR. PAUL: Well, I sent all the additional land applications of the Indians of the West Coast to Mr. Ditchburn, and if it may be permissible <sup>in order</sup> to give the Honourable Minister an idea of what the Indians are asking for, is it not possible for Mr. Ditchburn to provide you with a copy of what the Indians have asked for?

DR. SCOTT: Quite possible, yes.

MR. DITCHBURN: It is not all that the Indians asked for, because I may explain, Doctor, that all these applications that were put in to me required a great deal of going over; first of all, to ascertain whether it was possible to get the lands at all—to see whether they were alienated. And after going over the maps I had to make a supplementary list and submit it to the Government of British Columbia. This is the list for the West Coast Agency. It is not as great as they applied for, but it is considerable help if we get it through. But I have already explained the attitude of the Minister of Lands in connection with these supplementary—

MR. PAUL: There is a matter there that is not connected with the report of the Commission, but in justice to the Indians of the West Coast I would

like to state it here; that at the time that the reserves were being allotted by the Commissioner, O'Reilly, there were times when he did not get all the land that they wanted—I just don't remember O'Reilly, I think it was O'Leary. In one case there, the tract of the Indians, they had several camps at Kennedy Lake, and they made applications just last year for those sites. Now they tell me this, that they would have insisted on O'Leary giving them those sites, but O'Leary said this, Oh there will never be any white men around here, you will always have all those lands. And they thought that the West Coast would not be populated, that is why they let it go. Now in Olayoquot—Olayoquot formerly Antifeelo—it is alleged by the Indians that the Olayoquot was formerly a large Indian Village, and they were driven out of there by white men who used improper tactics to alienate the land from the Indians. The same case prevailed in Tofino. I think I made a report to you on that Vargos Island, Mr. Ditchburn,; I would like to repeat that again at this time.

DR. SCOTT: Yes. Well we will put in a list of the supplementary lands required by the West Coast Indian Agency. Of course there are four or five pages of the supplementary list which they are going to consider. What is the next Agency you will take up?

MR. KELLY: The next is New Westminster Agency. In reference to this Agency, our friend the late Mr. Tait made reports on that; he had dealt with

that, and there was no attempt made to go over that again as far as we were concerned.

MR. MITCHEBURN: I think Mr. Paull covered part of it.

MR. PAULL: I did, yes. Last year, when the Honourable Minister had a conference with the Indians, if I remember right, he said this—he made it possible for the same representatives of the Allied Tribes to go and visit the different Tribes, and report to him where the Report of the Commission fell short of the requirements of the Indians. That is what we are attempting to do in the report that we presented to Mr. Ditchburn last year. Well, that is what I told the Indians, anyhow, when I got there. Every evening that I would have, I had the Report of the Commission dealt with, what the Commission reported, and recommended, and so forth, and they would give me their side of it, and I would write it down to give to Chief Inspector Ditchburn. Now Mr. Teit covered Fraser River, part of this Agency.

Now, the Squamish Indians object to the cut off 130 acres on the Capilane Reserve; that is one cut off that I happen to be familiar with.

Now as regards the other matters, the voice of the Indians could <sup>be</sup> understood, if all the reports pertaining to these different Tribes were presented to yourself or the Minister by Mr. Ditchburn.

DR. SCOTT: Yes.

MR. MITCHEBURN: Again, I want to make a statement with reference to that cut off in the Capilane Reserve; Chief Matthias Joe informed the late Indian Agent Mr. Burn and myself, that he was quite agree-

able to that cut off, he understood it perfectly and was quite agreeable to have the land cut off and sold for the benefit, under the agreement; that is 50% to go to the Indians, and 50 % to the Provincial Government. Matthias Joe was very definite in his statement in that regard.

MR. PAULL: May I ask if that consent by the Chief was received by yourself in proper form, or was he speaking as an individual?

MR. DITCHBURN: Speaking with him on the Capilane<sup>44</sup> Reserve three or four years ago, and speaking in the proper way.

MR. PAULL: I am sorry to differ again, Mr. Chief Inspector, but he might have been presenting to you Chief Matthias' opinion of the matter as an individual; I am satisfied that he did not represent the views of the Capilane Band or the Squamish Tribe of Indians. And as they understand the Act it is that any such matters as that would go before the band, and the majority would rule. I would like to submit this, that what Chief Matthias said with regard to that evidently did not represent the views of the Squamish people or even his band.

DR. SCOTT: I think we understand about the New Westminster Agency.

MR. KELLY: Then we pass away from that. Mr. Matheson, who has resided there, and who has been empowered by that section of the country as representing them on the Executive Committee, has a report that was made to Mr. J. A. Tait; and if in a general way he could state just what the needs of the

people in regard to additional lands are, I think it would be quite timely now.

DR. SCOTT: Yes; that would be a good opportunity.

MR. DITCHEBURN: Who do you represent?

MR. GEO. MATTHESON: At this particular time, the Sardis group.

MR. DITCHEBURN: You mean of the CHILLIWACK Indians?

MR. MATTHESON: Yes, in a general way. The total acreage of these three reserves is about 830; the total population is about 116. So it brings it down to about seven acres per capita of land. Now, in this report Chief Billy states that in the Tseachtan Reserve half of that is sand—gravel and sand. The total land in Suhbin Reserve is about 614 acres, and the half of that is almost useless as far as agricultural land is concerned. This is all put down here in good English, but I am going over it roughly. So that, therefore, that would bring the per capita on the three reserves down pretty low. And they state here that in order to give a decent living they claim additional lands both for agricultural purposes and for pasture,—because they haven't pasture land right around the reserves. A few years ago they used to pasture their cattle on the public roads, but at the present time this is taken away from them; as soon as the authorities find any cattle on the public roads they are put in. Therefore, of necessity they must, in order to have a decent living, have more agricultural land and more pasture land. They say like this; that if the white people are able to get 160 acres, or somewhere around there, why

should not we? As a people they were here before the white people. Why should not we have the privilege of holding enough land anyway for our requirements? Now that is the reserve part of the report, and the requirements they want.

Now here is another grievance that Chief Billy has; along the land requirements he states <sup>in</sup> here that in James Douglas' time a portion for their Tribe was paced out. Douglas paced it out, and there is no man alive today that was with James Douglas at the time. Later on white people came in, and then they were helpless. So that it is all settled up except those little reserves I mentioned here. Now they want—Chief Billy and his people want this adjusted; they are not asking that those white people be chased off, but they want justice, either by compensation or new land. They put it like this, if the white people had not come into James Douglas' survey, we would have had sufficient land today; but because those lands were taken away—Sir James Douglas survey was taken away from us, that is where we were reduced. So they gave me authority to say this, that as soon as the authorities see fit to deal with this in a serious way, they say they are by justice entitled to compensation or to new lands. Now Chief Billy points out that their land is hardly fit for agriculture, there will be a little land ready to fall, but it is more for hunting. He points that out, and he gives me authority to mention this—as soon as the representative of the Government is in a

position to deal with it seriously. So I can give the boundaries of that land at any time.

It starts from the Vetter Creek and follows up the Oultus Iakd Mountain until it hits the boundary, the international boundary, about six miles width; and then runs up the Vetter Creek until you come to Celacia Creek, and it follows up that creek until it hits the international boundary, about six miles. The distance of that is about fourteen miles. That is the distance between these two boundaries. They are fourteen by six miles. They want to keep this instead of the Douglas survey. Either that or compensation. And Chief Billy has the charge of that.

DR. SCOTT: That is not what Sir James Douglas gave you?

A No, it is in lieu. As I said, that is hardly fit for agricultural land, it is mountainous---but the land that was in Sir James Douglas survey is the very best land in the valley; the Chilliwack city is on that, and all these farms. And they cannot see how they can get any part of that land back, it is gone entirely, occupied by white people; the white people are right in the reserve. And they make two propositions, either for compensation, compensate the Indians for what is taken away, or if not, then give them this land six by fourteen miles, although it is mountainous---for their hunting grounds and fishing grounds. That is as far as in the land requirements of these three bands. But the general requirements are in here too, and I will touch on that when the time comes. This is

a new boundary that they want to keep for their tribal territory. The Chilliwack tribal territory is right to Sumas Lake, that is the tribal territory, there was no boundary at that time, it runs beyond the boundary right down to Fraser River.

DR. SCOTT: I think that disposes of the New Westminster Agency. What is the next Agency?

MR. PAULL: Before you dispose of this Agency, Doctor, I would just like you to allow us to wait until Mr. Kelly comes back. I might say that in this Agency, around Chilliwack, Vancouver, the mouth of the Fraser, up Howe Sound, there was hardly any available land to be got in this Agency. So the door was practically closed to the inhabitants, those Indians of the Westminster Agency, before the Commission started. Now, there were 110 applications for additional lands, according to this report; there were eight new reserves---no, I cannot just lay my hands on the number of new reserves---

MR. KELLY: Looking at the map there are four.

MR. MITCHEBURN: Look in the schedule of new reserves right in front of you.

MR. PAULL: The Indians---we presented their demands for new reserves, in the statements that were submitted to the Chief Inspector by Mr. Tait and myself; I don't suppose you have time to go over them at this time again?

DR. SCOTT: No; we have the original application for new reserves; and then the other ones. Of course these things are already part of the record.

MR. MITCHEBURN: But there are two very important re-



serves up here for the Douglas Indians.

MR. PAULL: Those will be new ones?

MR. MITCHBURN. Yes, new ones. The land was not available before, and the status of the land was unknown, and there were old preemptions that went out of date, and were cancelled, and we have got those new reserves

MR. PAULL: The Sechelt Tribe and the Sliammon and Klahoose, I wrote them asking them to give me information as to their requirements, and for some reason unknown they did not make any new demands. The Sechelt Tribe, though, they reaffirmed their demands for additional lands as they made to the Commission. They made a great demand there for land. That is the only thing I can say for the Sechelt. The Sliammon and Klahoose assembled did not give me any information, they told me to use my judgment.

MR. KELLY: It seems to me that this sort of thing we can go on with endlessly.

DR. SCOTT: Well, go on until we get through with the reserves; I am willing to do that if you think it is necessary.

MR. KELLY: The fact remains, that if it is true in this case it is true in other cases, where so many new lands were applied for, it was impossible <sup>a</sup> to grant except in very few instances.

DR. SCOTT: Yes.

MR. KELLY: And in many cases recommendations were <sup>for</sup> made out of, and these out of generally speaking were very valuable lands. For instance, in this Capilano, in this Agency it is a very valuable spot which is

in the out off. And just looking over the applications, in this Agency, there was applications made to the number of I think 110 for new reserves—different areas. And going by this report here, there were granted about nineteen or twenty reserves. That sort of thing of course was true of all the reserves, you see. That is where we have challenged the work of the Royal Commission; or the Report of the Royal Commission as being inadequate. Not because we think that those men did not take into consideration the needs as they saw them, but their hands were tied in such a way that they could not do otherwise than what they did; that is what we realize. Now the question is, once again we are confronted with the same thing, what can be done about these? Is it possible at all to get more lands, where lands are needed? And it is granted, I think, that in the New Westminster Agency, especially in Chilliwack Valley, Fraser Valley, and the other parts of that Agency, where people will be forced to make their living by agriculture—following agricultural pursuits, they will have to have more land if they are going to be able to compete with <sup>their white</sup> brethren at all. At the present time they have a per capita acreage of 16.50—it is about 16, anyhow.

Now, just for the sake of argument, when it comes to land requirements, the Commission recognize the fact it was impossible to grant those; now I contend that it is still impossible to grant a great many of them, and perhaps all of them; so

what is going to be done in a case like that? Now we say that here is what we challenge the work of the Commission on. It becomes apparent as we go along, confining ourselves to land requirements only, we are held down to such a narrow channel, that it is impossible to make very good progress, I think. Once again I would like to read from our little statement, our book of 1919, p. 12, Paragraph No. 6:---we recognize that, therefore we put this in:

"That in sections of the Province in case of which the character of available land and the conditions prevailing make it impossible or undesirable to carry out fully or at all that standard the Indian Tribes concerned be compensated for such deficiency by grazing lands, by timber lands, by hunting lands or otherwise, as the particular character and conditions of each such section may require." We might have added, by fishing privileges, you see.

DR. SCOTT: Well, generally, do I understand, Mr. Kelly, with reference to land requirements, that you are disposed to stand by the conditions proposed as basis of settlement in your pamphlet of 1919, beginning at p. 11, and the following pages?

MR. KELLY: Yes.

DR. SCOTT: I am just dealing with reference to lands now,

MR. KELLY: Yes.

DR. SCOTT: Wouldn't it be useful for the Minister to have that before him? That is, we could get our reporter to incorporate that in the report as a general statement, and then not delay,---as you say your-

self, the conditions in each of these Agencies is invariable; that is the one offer you do not agree to, additional acreage you want which cannot be supplied? Wouldn't it be advisable to make the general statement, and then leave it with the Minister to see what he could suggest?

MR. KELLY: Well, we can go that far, and later on, in connection with other matters which we wish to speak on, make suggestions for his consideration.

DR. SCOTT: Yes, with reference to matters other than land or reserves?

MR. KELLY: Other than land, yes.

DR. SCOTT: I am perfectly willing to go on as we started, if you wish to do so, and take up each agency; but as the conditions are invariable, it seems to me, in all the agencies the objections being the same, it would probably be a waste of time; unless there is something special in some agency.

MR. KELLY: It would be a repetition of the same thing.

DR. SCOTT: It would be a needless repetition of the same conditions, or like conditions. And if you are disposed to stand by these conditions as proposed as a basis of settlement, in the pamphlet, it might be well to reiterate those.

MR. KELLY: Yes. Well, we are quite willing to do that, Dr. Scott. I was going to say, for instance,--- I am thinking of the Naas Agency in particular, they made an application for a large territory---a large territorial block of land, and it was not entertained by the Royal Commission. Once again, last year, they reiterated that same land, and I take it that it has

not been entertained, once again—could not be entertained. Now, frankly speaking, because of the behavior of the Haas people, we are just a little in the dark as to their exact stand. I think I said to you before, that they have been parties to everything that we have done, but yet, somehow, they always chose to keep aloof from certain of the conclusions that we have arrived at through their co-operation. It is a strange state of affairs—but I don't know just what to think of it. I don't know just what they would say. However, they have gone on record in standing by this, they said this is where we stand, this statement embodies our demands, our needs; meet this, then we are satisfied. We can only take them at their word. Now, what you suggest, Dr. Scott, is that we read these, and make them part of the minutes of this meeting..

DR. SCOTT: Yes; I make that just as a suggestion; not to interfere with what was in your own minds; all I want to get for the Minister is really what you want, you know, because that is what he has asked us to do here together, you see, to have a round table conference; he wants to ascertain what the mind of the Indians is. I am not suggesting that is your mind, but if it is, I don't think you could have it in a more useful or compendious form.

MR. KELLY: I don't think we can get it any better than we have right here; there is nothing better; the only thing is to elaborate these different sections. This is just a mere outline.

DR. SCOTT: We are dealing now with lands; if you

would just read the parts you would like to read.

MR. KELLY: Well, we have not decided to read any of it out.

DR. SCOTT: Very well, then, I want it all to go in.

MR. KELLY: So, I need not read the first part of it where No. 1 deals with the Proclamation of King George III; that has been done already this morning. I will read on p. 18, Paragraph 4.

DR. SCOTT: What about No. 2?

MR. KELLY: We can go that far, although that may not be purely land requirements, if you desire we can include that.

DR. SCOTT: No, I don't know that it is necessary; of course No. 3 I think is important, because that would include the cut offs.

MR. KELLY: I think, to facilitate matters, we may just as well start with No. 2:

"2. That it be conceded that each Tribe for whose use and benefit land is set aside (under Article 13 of the "Terms of Union") acquires thereby a full, permanent and beneficial title to the land so set aside together with all natural resources pertaining thereto; and that Section 127 of the Land Act of British Columbia be amended accordingly."

I may say that Mr. Teit who had the matter of compiling this, made very very careful study of the whole thing.

"3. That all existing reserves not now as parts of the Railway Belt or otherwise held by Canada be conveyed to Canada for the use and benefit of the various Tribes.

"4. That all foreshores whether tidal or inland be included in the reserves with which they are connected, so that the various Tribes shall have full permanent and beneficial title to such foreshore.

"5. That adequate additional lands be set aside and that to this end a per capita standard of 160 acres of average agricultural land having in case of lands situated within the dry belt a supply of water sufficient for irrigation be established. By the word "standard" we mean not a hard and fast rule, but a general estimate to be used as a guide, and to be applied in a reasonable way to the actual requirements of each tribe.

"6. That in various sections of the Province in case of which the character of available land and the conditions prevailing make it impossible or undesirable to carry out fully or at all that standard the Indian Tribes concerned be compensated for such deficiency by grazing lands, by timber lands, by hunting lands or otherwise, as the particular character and conditions of each such section may require.

"7. That all existing inequalities in respect of both acreage and value between lands set aside for the various Tribes be adjusted.

"8. That for the purpose of enabling the two Governments to set aside adequate additional lands and adjust all inequalities there be established a system of obtaining lands including compulsory purchase, similar to that which is being carried out by the Land Settlement Board of British Columbia.

"9. That if the Governments and the Allied Tribes should not be able to agree upon a standard of lands to be reserved that matter and all other matters relating to lands to be reserved which cannot be adjusted in pursuance of the preceding conditions and by conference between the two Governments and the Allied Tribes be referred to the Secretary of State for the Colonies to be finally decided by that Minister in view of our land rights conceded by the two Governments in accordance with our first condition and in pursuance of the provisions of Article 13 of the 'Terms of Union' by such method of procedure as shall be decided by the Parliament of Canada."

These paragraphs refer just to land requirements there. The other paragraphs are a little different in their nature.

"10. That the beneficial ownership of all reserves shall belong to the Tribe for which whose use and benefit they are set aside.

"10. That a system of individual title to occupation of particular parts of reserved lands be established and brought into operation and administered by each Tribe."

This is the administration of the matter; it goes on to say:

"12. That all sales, leases and other dispositions of land or timber or other natural resources be made by the Government of Canada as trustee for the Tribe with the consent of the Tribe and that of all who may have rights of occupation affected; and that



the proceeds be disposed of in such way and used from time to time for such particular purposes as shall be agreed upon between the Government of Canada and the Tribe together with all those having rights of occupation."

reason

The ~~xxx~~ for this was, I think, the desire to change certain sections of the Indian Act, governing such procedures.

"13. That the fishing rights, hunting rights, and water rights of the Indian Tribes be fully adjusted. Our land rights having first been established by concession or decision we are willing that our general rights shall after full conference between the two Governments and the Tribes be adjusted by enactment of the Parliament of Canada."

Then we go on to the fishing rights as it was affected by that international treaty which was threatening matters at the time; of course the treaty has not been sanctioned, and therefore does not operate now. Then the other parts of this dealing with compensation, I don't know that it is necessary to go into that part of it just now. Page 15, Paragraph No. 5---

MR. SCOTT: Well, I think that is all pertinent to it, because we are dealing now with the possible basis of a treaty, you see; and this is important.

MR. KELLY: Then for the sake of a record we will start reading from Paragraph 15.

"15. That compensation be made in respect of the following particular matters:

(1) Inequalities of acreage or value of both that may be agreed to by any Tribe.

(2) Inferior quality of reserved lands that may be agreed to by any Tribe.

(3) Location of reserved lands other than that required agreed to by any Tribe.

(4) Damage caused to the timber or other natural resources of any reserved lands as for example by mining or smelting operations."

DR. SCOTT: You do not require No. 5, because that is embodied in No. 20, ?

MR. KELLY: Yes, that is true.

"16. That general compensation for lands to be surrendered be made:

(1) By establishing and maintaining an adequate system of education, including both day schools and residential industrial schools." This is a large question.

DR. SCOTT: That does not come in here just now.

MR. KELLY: We will reserve the right of course to talk on that later on.

"(2) By establishing and maintaining an adequate system of medical aid and hospitals." We will have quite a little to say about that, also. And I was going to put down here No. 3, which is not included here; Mothers and old age pensions--- which we would like to have included in that--- that is No. 3 under Paragraph 16.

"17. That all compensations provided for by the two preceding paragraphs and all other compensation claimed by any Tribe so far as may be found necessary be dealt with by enactment of the Parliament of Canada and be determined and administered

in accordance with such enactment.

"18. That all restrictions contained in the Land Act and other Statutes of the Province be removed,"  
Reversionary rights, for instance. Of course that is a whole subject that must be gone into in a thorough way.

"19. That the Indian Act be revised and that all amendments of that Act required for carrying into full effect these conditions of settlement, dealing with the matter of citizenship, and adjusting all outstanding matters to the administration of Indian affairs in British Columbia be made.

"20. That all moneys already expended and to be expended by the Allied Tribes in connection with the Indian land controversy and the adjustment of all matters outstanding be provided by the Government."

Now these we have laid down as the basis of settlement; and as the years pass—it is three and a half years since this was made—we have no reason to change our mind; in fact we have been more and more convinced of the necessity of these things being carried out.

DR. SCOTT: We were ~~dealing~~ dealing, in the first instance, with the land requirements, and the report of the Royal Commission. The general statement with reference to the Report of the Royal Commission is that it is not satisfactory, and nothing would be satisfactory except some such arrangement as is outlined in the first paragraphs of these requirements that you have just read?

MR. KELLY: Which particular paragraphs?

DR. SCOTT: Nos. 4 and 5, fisheries and adequate additional land.

MR. KELLY: Yes.

DR. SCOTT: I want to make the clear representations to the Minister, you see.

MR. KELLY: Yes.

DR. SCOTT: That is, you would wish a reexamination of the whole question on that basis, with some adequate machinery for obtaining lands that are required?

MR. KELLY: Yes, that is what we intend. <sup>Now</sup> We realize once again, that in certain sections additional lands would be impossible; I think that goes without saying.

DR. SCOTT: Yes.

MR. KELLY: And even in certain sections perhaps just the lands alone would not meet the requirements of the Indians; we recognize that. Of course then comes in other benefits that may make up for that loss.

DR. SCOTT: In the absence of land?

MR. KELLY: Yes. That is what we want to discuss. I think it is evident to your mind, as well as to our minds that the carrying out of that in the practical way is not as simple as it sounds. We would have to have machinery to set going to carry that into effect. Frankly speaking, I am not prepared to say that I can say now, this is the way; I must confess that my mind is very very human sort of a mind, and I do not pretend to see the end of the road; but I am starting out, and want time to launch out on it.

MR. PAULL: It has always been in our mind that

it was not possible for the Indians of British Columbia to receive what they really required under the McKenna-McBride agreement because that agreement says that additional lands could only be secured for the Indians where the lands are open Crown lands. Now at the time that agreement was made, a great part of this country was occupied, perhaps only in remote parts of the Province were there Crown lands. Now, to be frank, we have to say this, that it must have been realized by the two Governments that some Tribes would not receive any lands; before the Commission started out on their work, by virtue of the fact that there were no Crown lands in the <sup>immediate</sup> vicinity of those reserves. Take, for instance, the Shilliwack District, New Westminster, Vancouver, it was not possible for them to receive any Crown lands. When we know for a fact that a lot of these lands were occupied by foreigners, with the one object in view, to speculate and accumulate a lot of money. As a matter of fact, that agreement was just a little too late. If that agreement had been put into effect by the two Governments prior to the time that all the lands were occupied, by timber limit holders, prospectors, and so forth, it might have been quite feasible at that time to adjust these matters; but in the year that this agreement was made, it was practically impossible to meet the requirements of the Indians as to lands. We realize that in order for the Indians to exist, not only now, but in the future, we will certainly require lands. And according to the McKenna-

McBride Agreement it is not possible for the Indians to get their land requirement, because there were insufficient Crown lands upon at the time that agreement was made. And would it be necessary, for the information of the Minister, to include in that, our objections to the Report of the Commission as contained in this statement?

DR. SCOTT: You have done that—you started to do that; we have just ~~stuck~~ put that in the record, what your objection is.

MR. KELLY: Yes. We might say, we have taken a sort of a positive stand—we have taken a negative stand in a general way. In this statement we have made some particular objections. I do not know that it is necessary to reiterate that again; we have on p. 7, grounds of refusal to accept; you see in that statement.

DR. SCOTT: It is quite within your scope if you wish to put this in.

MR. KELLY: Of course these paragraphs sum up in a general way our opinion, you see, to the Royal Commission. We have dealt with them. And without numbering them; without going into particular matters except the land question, the land needs, these different paragraphs sum it up, perhaps in a more intelligible way the whole thing.

DR. SCOTT: Perhaps they might be allowed to go in then, Mr. Kelly.

MR. KELLY: Yes. We will read that in, then, at the bottom of p. 6:

W.E.O. "1. The additional lands set aside are to a large extent of inferior quality, and their total *value*

is much smaller than that of the lands which the Commissioners recommend shall be cut off.

"3. In recommending that reserves confirmed and additional lands set aside be held for the benefit of bands, the Commissioners proceeded upon a principle which we consider erroneous, as all reserved lands should be held for the benefit of the Tribes."

Then we go on to the grounds of refusal to accept.

"In addition to the grounds shown by our general introductory remarks, we mention the following as the principal grounds upon which we refuse to accept as a settlement the findings of the Royal Commission;—

1. We think it clear that fundamental matters such as tribal ownership of our territories require to be dealt with, either by concession of the Governments, or by decision of the Judicial Committee, before subsidiary matters such as the findings of the Royal Commission can be equitably dealt with.

2. We are unwilling to be bound by the McKenna-McBride Agreement, under which the findings of the Royal Commission have been made.

3. The whole work of the Royal Commission has been based upon the assumption that Article 13 of the 'Terms of Union' contains all obligations of the two Governments towards the Indian Tribes of British Columbia, which assumption we cannot admit to be correct.

4. The McKenna-McBride Agreement, and the Report of the Royal Commission ignore not only our land rights, but also the power conferred by Article 13

upon the Secretary of State for the Colonies.

5. The additional reserved lands recommended by the report of the Royal Commission, we consider to be utterly inadequate for meeting the present and future requirements of the Tribes.

6. The Commissioners have wholly failed to adjust the inequalities between Tribes, in respect of both area and value of reserved lands, which special Commissioner McKenna, in his report, pointed out, and which the report of the Royal Commission has proved to exist.

7. Notwithstanding the assurance contained in the report of special Commissioner McKenna, that, 'such further lands as are required will be provided by the Province, in so far as Crown lands are available,--' the Province, by Act passed in the spring of the year 1916, took back two million acres of land, no part of which, as we understand, was set aside for the Indians by the Commissioners, whose report was soon thereafter presented to the Government.

8. The Commissioners having failed to make any adjustments of water rights, which in the case of lands situated within the Dry Belt is indispensable.

9. We regard as manifestly unfair and wholly unsatisfactory the provisions of the McKenna-McBride Agreement relating to the cutting-off and reduction of reserved lands, under which one-half of the proceeds of sale of any such lands would go to the Province, and the other half of such proceeds, instead of going into the hands or being held for the



benefit of the Tribe, would be held by the Government of Canada for the benefit of all the Indians of British Columbia."

DR. SCOTT: Well I think the record, then, shows very fully your attitude with reference to the report of the Royal Commission, and the point that you wish the Minister to consider in connection with the confirmation of that report.

MR. KELLY: Yes; I think that is clearly said in all this. I do not see how we can make it any clearer than we have striven to do.

I do not know just what your program is, Dr. Scott and Mr. Ditchburn, but I am inclined to move an adjournment until tomorrow morning, and that we begin tomorrow morning the discussion of the several matters which we have mentioned, general rights, such as fishing rights and other rights of that nature; and later on the question of compensation must be stressed.

DR. SCOTT: Yes; that is agreeable. We will take up the hunting and fishing rights, and then we will take up the treaty after that; all that remains will be the general compensation, that is if a treaty were to be made; the question of education, medical aid, hospitals; and matters of old age pensions. That would naturally follow. I don't think there is anything between those two subjects.

MR. KELLY: Nothing that is very broad.

The Conference was here adjourned until tomorrow.

Wednesday, August 8, 1923 the Conference was resumed.

MR. KELLY: The interior members of the delegation wish to say a little more about some of the out offs in particular. If it is acceptable to you we would like to go on with that.

DR. SCOTT: Certainly, yes.

MR. KELLY: The Interior, of course, as you are not doubt aware, is a little different from the Coast; the Interior is peculiar in its own way. In so far as the coast is concerned there is a great similarity; but the Interior of course is absolutely different from the Coast, in that it consists wholly of ranges of grazing land, and lands of that nature.

DR. SCOTT: Well, who will make those representations?

MR. KELLY: Mr. Leonard, here, speaks from the Kamloops section of the interior; Mr. Narcisse Batiste comes from the Okanagan Agency, where there are large out-offs, and in the Lytton Agency there are also out-offs. They will speak particularly of these out-offs.

ALEO. LEONARD: I wont undertake to make a long speech because some of the things have been said yesterday on this subject; but this one item is important to Kamloops, where the out-off comes in. It is one of the most important parts of our reserve. And the same in other places. It is not the pieces that are of no value at all that are out off; as a rule, right through, it is the most important parts that the Commissioners have recommended to be out off. It is the same in other places. They have been after this same little

spot of 380 acres for the last fifteen or twenty years for a townsite. And so finally they have set it aside. Undoubtedly they wanted it to be set apart for the Soldier Settlement Board, for returned soldiers, crippled soldiers.

DR. SCOTT: Where is that?

A On the Kamloops Reserves—No, 1 of the Kamloops Reserves. It is taken on the very best parts of this reserve; it is right from the Industrial School down to the Thompson River, somewhere about 380 acres, anyway. And most of these places that have been recommended to be cut-offs are about the best pieces of land that are in the country, and which we would not part with for any amount. And they have been bucking us right along; not only ourselves in Kamloops, but in other places in the interior, further up. And we are strongly opposed to all these cut-offs. Instead of cut-offs we ask for grazing lands; but we don't want these cut-offs at all; but we want some more grazing lands besides, as we are quite a bit short, as far as grazing lands are concerned. Most of the time we have to turn out stock, and then we are made to fetch them back into our reserves. And at times made to pay taxes—on some reports from the Illecet District. The same with all the other agencies up there, it is always pretty near the best piece of land that they are cutting off. I would say now, we do not wish these cut-offs to be enforced; if anything is to be done, it should be to enlarge our grazing lands.

MR. KELLY: You are protesting particularly against this out-off which is referred to, No. 1?

MR. LEONARD: Yes, No. 1; and the other reserves in the immediate vicinity, that are out-offs. Not only in Kamloops, but all around in the interior, as every one I have met have all been opposed to it.

MR. KELLY: It seems to me, gentlemen, that there is a great deal of injustice in this particular case. I happen to know <sup>a little</sup> something about that vicinity, that is to say, I have never made any examination of the place at all, but being over the ground I naturally saw the condition of that section of the country; and it seems to me that if the City of Kamloops or any industrial organization, wants that particular parcel of ground containing 380 acres; they should proceed about it in the proper way, and buy it through the Indian Department.

MR. MITCHELL: Mr. Kelly, possibly I can clarify the atmosphere with regard to the out-offs recommended by the Royal Commission within the Railway Belt. I may explain to you that I have put in strong argument against these out-offs, that is on grounds that the Royal Commission on Indian affairs did not have power to cut off---or at least; any recommendations made by the Royal Commission in that regard were not and could not be discussed by the Provincial Government, as I contended that they did not have any interest in lands in reserves within the Railway Belt.

MR. REID: In making your remarks you only refer to the Railway Belt.

MR. DETORNBURN: In this particular connection, yes.

MR. REED: That remark does not apply to any other?

MR. DETORNBURN: No. These were really recommendations; and it is just a matter to be considered whether they are to be acted on or not; a matter between the Indians and the Department entirely, as to whether those should be cut off, and the recommendation carried out. And it is a recommendation in which the Province of British Columbia have no interest at all; to my mind. Possibly if your committee would make a recommendation along those same lines as my argument, it might strike them.

MR. KELLY: We have protested against the cut-offs generally; and the only thing we can do, as has been already done, is to protest against the cut-offs in the Railway Belt in particular. We realize that the Railway Belt is a little different from the other parts of the Province, inasmuch as the Railway Belt falls to the Dominion Government—at least they have the right to say what they wish to be done there. And we strongly protest against the cut-offs recommended by the Royal Commission being confirmed.

Now we were going to talk about other cut-offs that were recommended, too, but if we make a blanket protest like that, covering the whole thing, I think it will answer the purpose.

DR. SCOTT: Yes.

MR. KELLY: Without exception, there is a very strong protest against the cut-offs being confirmed. There is another cut-off that has been spoken of, that is the one in the Okanagan Agency, and Mr. Harshe

Batiste will be able to give us a little more light on that.

MR. BATISTE: I am representing the Okanagan Agency,—— about the cut-off. And every single person that I know, they never agreed to the cut-off by the Royal Commission; they do not agree at all. And there is no increase of land for them at all, and they want grazing land. I know in the Similkameen District especially, there are white people have got stock, and Indians, both of them, and the white people come in the range in the mountains and the hills. And one summer one fellow got about forty or fifty beef cattle, and they couldn't put them on the hills that summer, and they couldn't sell them that summer at all, because not fat enough to sell, and he didn't have enough place to range his cattle. And everybody was wishing he had increase in land to hold his stock—not just to hold the stock in the summer.

MR. DITCHBURN: What Tribe was that?

MR. BATISTE: Similkameen.

MR. DITCHBURN: Upper or lower?

MR. BATISTE: Lower; at the Similkameen. From the Similkameen down there is more trouble between the whites and Indians. People come from the mountains on both sides, and the cattle have no place to range in the summer. Of course in Penticton there is a big place cut off, and not a single person has agreed to the cut-off; everybody against it. The Penticton Chief was expecting to come all the time; and he was ever last time, and did not have enough money to come again.

DR. SCOTT: You are representing him?

MR. BATHISTE: I am representing him. He gave me a little money now to come here.

DR. SCOTT: And you protest against the cut-offs in that Agency?

MR. BATHISTE: Yes; do not want them cut off at all. Okanagan, and West Bank Reserve, and Vernon, and Penticton Reserve.

DR. SCOTT: Is that all?

MR. BATHISTE: Yes—not enough grazing lands. Of course they used to be all right, because no white people were in the mountains; but now there are so many there is not enough for our own.

W.R.D.

MR. KELLY: For instance, the <sup>14,660</sup> 14660 acres that are recommended to be cut-off, although it may not be good for anything else, it is a fruit-growing area; there are certain times in the season when it is good for grazing land—after the rains they do have grazing on it.

Then, one other particular cut off,—although it has been covered in a way when we protested against the cut-offs in the Railway Belt,—that is the Seabird Island, consisting of, I don't know just the acreage, but about 2500 acres, I believe, recommended to be cut off there.

MR. HITCHHURN: Igten Agency?

MR. KELLY: Yes, Igten Agency. And that is within the Railway Belt, too. So I think the protest against the cut-offs cover that.

DR. SCOTT: Well, I received a personal protest against that at Vancouver; an Indian came to see me, re-

presenting the Chief, Edmund Jee; he represented Chief Harry Joseph. And we took a note that he protested against that cut-off; the Chief sent word.

MR. KELLY: Well, of course that section of the country is well represented in our organization, and they have always protested against it.

Stephen Ratasek, who is from Milleost, wishes to register his protest against the cut-off at Clinton Reserve No. 1. I notice here 220 acres were cut off, "Save and excepting the Indian graveyards therein contained"---the whole thing is recommended to be cut off, except the graveyards; and he says his section of the country, his people are absolutely opposed to that. But, just as he said yesterday, it is the same thing all over the Province, with very few exceptions. In fact, I have heard of some exceptions, but I never met with any one who is in favour of the cut-offs yet. I do not doubt there may be two or three instances where they would be in favour of certain cut-offs, but personally I do not know them.

DR. SCOTT: The cut-offs in the Railway Belt, it is in the power of the Dominion Government alone, by itself, to do something about these, either to grant them or not to grant them.

MR. KELLY: Just as we were saying this morning, that it seems to us that it is up to the Dominion Government to set an example, by doing that very thing. We are protesting against these cut-offs within the Railway Belt, and it is within the control of the Dominion Government. And they will



prove their sincerity by ~~saying~~ saying that, since there is a protest against that, they are not going to confirm the cut-offs recommended by the Royal Commission on Indian affairs.

DR. SCOTT: Yes, I wanted you to make it plain on that point.

MR. KELLY: We feel we are more justified in protesting against those cut-offs, because of that very fact.

MR. REID: Mr. Chairman, speaking on behalf of the United Northern Tribes of British Columbia, I wish to speak here particularly of the Tsimpsaan Section, namely, Finlayson Island, <sup>No doubt</sup> /Mr. Ditchburn knows about it. On Finlayson Island the acreage is 1589 acres, there is a cut-off on this of 1179, making a balance left there of 410 acres. Now, the Tsimpsaan people object to this cut-off. They have various reasons for objecting to it. One of their reasons is that they know for a certainty that there are minerals there, because the white people have been staking claims on this island. Now there is the reason that they think in their minds is the reason of the cut-off, is because the Government want to speculate on it—that is, turn it over and speculate on it, taking it away from the Indians. That is the reason they object to that.

One other matter is the big matter, it is of the Metlakatla people particularly, although it touches upon the Tsimpsaan people; that is a reduction—the acreage in that is 44175, and the cut-off on that is 10468. Now in the report of the Royal Commission they say that this land is

of no value to the Indian, they say this it is no good to them; they cannot do anything with it. If such is the case, what value is it to the B. V. Government? If it is of no value to the Indian, if it is no good to him, what are they going to do with it? Why cut it off? Why not leave it there? They cut this off, and they give them some little bit in another place which they say is of more value. In this particular part of the country, Dr. Scott, which I am very well acquainted with, I know that those lands in time will be of value to those people. They may not be at this present time, because they have other ways of making their livelihood, they make their livelihood by fishing and so forth. In some years to come, in the future, it may be in the next generation or so, this fishing will all be done away with, and these people will have to go on the land; and this land may be will be watered or drained, or something, and made so that it can be cultivated, so that they can till the soil. There is the reason the Tsimpsan people of this northern country, that is all this Tsimpsan nation, object to all these cut-offs, because they say that it will be of use to them in the future; that is to their children. At this time they admit they are not making use of it. They have various different reasons for not cultivating that land. Because they are afraid if they do cultivate it, make it valuable, the Government will walk in and say, We are going to cut this off and take it away. There is the

reason they do not use this land at the present time. But if something is done in the settlement, whereby it says that this land is yours, we are not going to take it away from you, they will get busy on it. It is a general protest, Dr. Scott, that I am making, on behalf of the Northern Indians of British Columbia re the cut-offs. I just make that protest to have it registered.

MR. DITCHBURN: Mr. Reid, did not the Royal Commission say that the reason for cutting off that ten thousand acres in the Metlakatla Reserve was in order that—I forget the terms used, but in order that a fictitious value would not be given to the amount of land that the Indians had.

MR. REID: Yes, it was taken that way, and I say, Mr. Ditchburn, if such is the case, of what value then is it to the white man?

Now I will cite here, Dr. Scott, another instance, the Swoowahllans. Here is a place, a creek, that is right close—that is this reserve is right close to Prince Rupert. Now the Royal Commission cuts a section of that off. True enough, the acreage is only eighteen acres, but they cut off 1.18 acres of that. Why do they do that? Because Prince Rupert wants it. That is why they do it. It is not because the B.C. Government wants it, but because Prince Rupert wants it, that is why they do that. There are the reasons why the Northern Indians object to these cut-offs.

DR. SCOTT: What use does Prince Rupert make of it?

MR. KELLY: I know a lot about that—for water power; it has to do with the water system of the City of Prince Rupert. That was the reason why that was done.

DR. SCOTT: Is there any one else to speak on that general subject?

MR. KELLY: I don't think so. We are simply picking out little spots here and there; but the protest is general, as we have said before.

MR. REID: It is just registering the different sections of the country.

MR. KELLY: Last year I may say, I think Mr. Ditchburn will bear me out in this, that he knows people protested very strongly against the Kitsalt out-off on Observatory Inlet, a out-off of 202 acres. You know about that?

MR. DITCHBURN: Yes.

MR. KELLY: Of course I don't know the history of it, but from what was told us last year they are very very much against that.

MR. DITCHBURN: The Indians were not against the sale of it, Mr. Kelly.

MR. KELLY: I am not prepared to say, but they are against the out-off, which means, I think, the same thing. I suppose they may not be against the idea of selling it, such as, for instance, the Cape Island Reserve was sold to the Grand Trunk Railway Company by the Metlakatla Band. But the idea of being deprived of this land, being forced to give it up, is a thing that does not appeal to them, you see. And of course the fifty per cent of the proceeds going to the Province, that is a thing that somehow

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rubs them the wrong way.

Now, we will consider that we are through with that.

DR. SCOTT: Yes.

MR. KELLY: Talking about general rights, as we were going to do this afternoon—we have been doing that, but coming to other matters, especially in the Interior, water is of paramount importance. That goes without saying. Water is just like an artery to the different sections of that country. Without water, great stretches of territory are useless. And the Indians feel that just as well as their white neighbors. I don't think I need to belabor that point. Mr. Ditchburn, who has been going into that in a very thorough way, and I think I can say very satisfactory way, knows just as well as we do. Nevertheless, our friends who come from that section of the country, say that they are just gradually being pressed and pressed and pressed; where they were entitled to say 300 inches of water at one time, they have been pressed down to 50 inches of water, and finally to nothing at all. I am not conversant with the technical terms that are used in connection with water there; I never met that sort of thing very much.

MR. DITCHBURN: Have you got any particular reserve in mind, Mr. Kelly?

MR. KELLY: Yes, in particular the Kamloops Reserve.

MR. LEONARD: We are hurt by the shortage of water in the interior, not only Kamloops, but all around the surrounding territories. For example, in my own reserve, at one time, according to the records

in the books, we had five hundred inches out of Paul Creek, and all other sources of water which flowed into the Kamloops Reserve. "They went on there fine until later years these companies got on and record again the same waters, subject to our rights. As shown in the books of the Department, they got their water subject to our rights of 500 inches. They went on until somewhere about 1912 or 1913 they took us to Court about it. In that year the Water Board's decision cut us down to 357 inches prior right, prior to the rights of this other company. A year or so afterwards, this same company had us brought up again, and there was a lawyer who acted for us at the time, from the City here, I don't just remember his name at the present time.

MR. DUTCHBURN: Mr. Brown, of Ellis & Brown.

MR. LEONARD: After the Court the Judge reserved his decision, and we were notified by the Agent that we did not have our 357 inches of water the prior right. So afterwards, without our knowledge, or representation of our part of the country, it was taken to the Courts of Appeal; and we never heard any particulars for a long time afterwards; afterwards our Indian Agent asked us what was the matter; and we never heard any more of it. But they told us they were sorry to say we had lost our water rights entirely, that we had no more record in this Paul Creek, the creek where the natural flow is right through the centre of the Kamloops Indian Reserve, water that from the lakes ran into the reserve about a mile before it is

diverted out and taken to this other place, called the Western Canada Ranching Company, running through the reserve something like three miles,---down its natural channel; and diverted from it, and run another couple of miles through---and which we were the former builders of a dam up at the lake, and it was afterwards that they built their dams. So that then we were left without water. And it was only through mere kindness, I would say, that we have been given fifty to fifty with them.

DR. SCOTT: The company give them 50 % of the water?

MR. LEONARD: This year the part that they gave us would not amount to anything; even with the help of the rain it took two weeks for that water to come down to our reserves. So that they are in a fix, and hundreds of acres are lying idle, which had been under cultivation years back; and brush has grown on places that have been under cultivation before, when there was ample water. There are hundreds of acres that can be seen that are in that shape at the present time. And as a result, lots of them have kind of got disheartened, and they want go into cultivating as much as they used to. We had been strong in the line of agriculture up in the interior, as was proved by bringing down exhibitions to Vancouver and New Westminster; and every time we used to bring exhibitions down in the line of agriculture. I do not think we will be able to make any this year. And the others in the surrounding country are in the same line as we are. For instance, Bonaparte, although a river runs through



it, they have not got the water out, so that they can make use of it.

MR. KELLY: I think, gentlemen, that it is a well known fact, and established, that this applies to the greater part of the interior; so much so, that the Indian Department has been engaging engineers to look into the whole thing. That of course you can tell me better than I can tell you; but the complaint has been, as far as I am aware of, a general one all the time, every year through executive meetings our friends from the interior come down and complain about the shortage of water, that some of them have reduced their stock because of that, they said they could not get hay enough to feed their stock in the winter-time, they could not grow enough hay for their stock, and they were forced to reduce the stock. Some said that they used to have a respectable number of stock, but they have been forced to reduce them because they could not keep them, it meant starvation for the cattle. Our friends from the Okanagan said the same thing, that they could not sell their cattle because the condition of the cattle was so poor that when they were put on the market they were not in the same class as the stock belonging to the white people, who had the privilege of tang-ing their cattle on the public grazing lands. Now I am simply saying what has been told me; I don't know the particulars of those facts.

DR. SCOTT: Of course this obtains to all places where water is needed. I may say that two years ago I asked for co-operation of the Watix Powers' Branch

of the Department of the Interior, in making a general investigation; and we have the greatest satisfaction in the work that they have done, and I think the Chief Inspector might say a few words on the general water question, and the effort the Department has made to obtain proper records for the Indians throughout the country.

MR. KELLY: It would be very enlightening, I think, if he would.

MR. DETOMBUEW: I was endeavouring to hold my remarks until that was through, but if you wish it now I will do so.

DR. SCOTT: Yes.

MR. DETOMBUEW: It is just as well that the Indians did know that the Government of British Columbia withheld action in confirming any applications for water made in behalf of the Indians, ever since the reserves were allotted. In some cases the Indian Reserve Commissioners made allotments of water; in other cases these were covered by applications under the British Columbia Water Act. But the Government of British Columbia withheld any decision on these, on the most of them, at least, until they could be assured that the reserves required as much water as was being applied for. It was then necessary to have surveys made of all the reserves within the irrigation district, or the irrigation area of the Province. And Dr. Scott then got in touch with the Deputy Minister of the Department of the Interior, or the Chairman of the Water Powers' Branch of the Department of the Interior, and

made arrangements for the co-operation of that branch with the Department of Indian affairs. This arrangement resulted in their sending out and putting a staff of engineers in the field; and they have been working there, and they are going through every Indian Reservation, making maps of the irrigable areas of land in these reserves, and getting out plans and reports, and putting them in possession of the British Columbia Water Branch. And our records are then being adjudicated upon; and in these requirements I may say that the Board generally have treated us very fairly. There are a few cases that it is without the power of the Board to deal with. Unfortunately the Board are bound by the British Columbia Water Act of 1914, and it only just allows them to go just so far. And there are a few cases which the Board cannot give us any relief on; and it may be necessary to take some legal measures in order that the Indians' necessities in this regard may be filled. The situation at Kamloops is a bad one, it is admitted. There is another one at Oregon Jack, and another one at ~~Line~~ <sup>Blind</sup> Creek, down below the Similkameen. These are cases where the Indians always enjoyed the use of water, but owing to prior record holders coming in and increasing the irrigable area, deprived the Indians of the water that they had always been using. It is a great injustice, we think, and representations have been made to the Province of British Columbia to give us some remedial legislation to deal with these particular cases. At Kamloops the Board went so

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far as to give to us priority of a record over the  
W.E.D. old Dodd & Thompson record of 1869, one day's priority, that we would get about 350 or 400 inches of water for that reservation. There was no record, it was just merely an entry on another record; the  
W.E.D. Dodd & Thompson record stated that Messrs. Dodd & Thompson were entitled to so much water for irrigation purposes subject to the prior right of the Indians of the Kamloops Reserve for sufficient water to irrigate their lands. The Board of Adjudication, of the British Columbia Water Branch, felt that they were entitled,---that that also constituted a record for the Indians; and they gave us one day's priority. We felt pretty secure.  
But the Kamloops Canadian Western Cattle and Ranching Company, who hold that old record, applied to the Court of Appeal, and upset the decision of the Water Board; they held that the Water Board had no power to consider that a record for us; that whilst under the British Columbia Water Act of 1914 the record must be some entry in a book, and we did not have that. Now the judges of this court did not determine that the Indians had no right there, they merely held that the Board of Adjudication were without power in giving us a  
W.E.D. record. The Oregon Jack case, and the <sup>Blind</sup> Mine Creek case, I think are questions that we might appeal to the Courts if we cannot get remedial legislation from the Province of British Columbia. I recently took the cases up with the Minister of Lands, and he has asked me to write him a memor-

andum on them; I have got the memorandum about completed now, and it will be handed to him, to see if something cannot be done to help us.

And as regards water in all other sections of the Dry Belt, the <sup>Indian</sup> Government Department is spending a large amount of money for the work of these engineers; because, after we have shown the Government of British Columbia the amount of water we require, the next thing is to get it. We have to get it before we can utilize it. We must show we are going to utilize the water they give us a record for. But that may not be obtainable at the source. So we have to go further afield, and create storage works in the hills, fix up irrigation schemes, in order that the water may be brought <sup>from</sup> further afield to the place where it can be utilized. Now that work is being carried on for the last four or five years. And although some of the Indians may think that the water matters have been neglected, it has not been the fault of this Department. A very intelligent effort is being made now, and the work will be carried on, to see that every reserve in the Province of British Columbia that requires water for irrigation and domestic purposes, will have their necessities fulfilled, if it is at all possible to fulfil them.

MR. KELLY: May I ask Mr. Ditchburn, that according to that, the Kamloops people have no rights at all, then, so far as the water is concerned?

MR. DITCHBURN: Pardon me; we claim to have the original Indian right, prescriptive right.

MR. KELLY: But according to the decision of the Court of Appeal, they have nothing on record.

MR. MITCHEBURN: No, no record. They do not say the Indian has not got a right, but they merely say that the Board of Adjudication of the Provincial Government did not have power to consider that the old Dodd & Thompson record constituted a record for the Indians. Do you understand that?

MR. KELLY: Yes.

MR. MITCHEBURN: Because there was no entry in a book.

MR. PAULL: That deprives the Indians of the privilege of using their five hundred inches of water that was allotted to them by the Commissioners.

MR. MITCHEBURN: No, <sup>no,</sup> it does not deprive them at all, because we have, under private arrangement with this company so far have been able to get a 50-50 break on the water for the last four or five years.

MR. PAULL: Indians at Kamloops contend, Mr. Mitchburn, that they should get all the water—that they should get their 500 inches, instead of that company.

MR. MITCHEBURN: Yes; I think they are perfectly right; the Indian has really the first moral right on the stream.

MR. KELLY: Mr. Leonard was saying now that that company tells them they are willing to give them water, as much as they can spare, but at the same time informing them that any time that they feel the need of water more than the Indians do, that they are going to cut them right out of it.

MR. MITCHEBURN: Of course they have that legal

right at present, until it is upset.

MR. KELLY: And they say that they are going to exercise it if necessary. In that case there would not be an inch of water coming down to the Indians.

MR. DETCHBURN: That is recognised. That is why I say it is an urgent case. The matter is not being lost sight of.

DR. SCOTT: We are making representations to Mr. Pattullo; and Mr. Ditchburn is completing his memorandum, and we intend to press for fair treatment.

May we pass now, having dealt with water rights, to the next?

MR. PAULL: Would it not be desirable or permissible, to put on these records all the several water rights allotted with the different reserves at the time of allotment.

DR. SCOTT: No.

MR. PAULL: You already have that on record?

DR. SCOTT: Yes.

MR. PAULL: Also the memorandum of the Royal Commission on Indian affairs, re the water?

DR. SCOTT: No, there is no reason for putting that on the record.

MR. PAULL: For the information of the Minister?

DR. SCOTT: Oh no, that is a matter of detail which does not seem to me to be necessary.

MR. PAULL: It is of so much importance, Doctor; it means the success or failure of these people. Now the Indians in school in the Interior are being taught farming, and so forth; but when they come back to the reserve, and they are up against a

stone wall, there is no use of the ex-pupils putting into use what they have learned in the Industrial Schools, or the Boarding Schools, because without water they cannot till the soil, or do anything else.

MR. DETCHBURN: Outside of those cases, Mr. Paull; what cases do you know of personally, that such remarks as you have just stated would apply to?

MR. PAULL: I received my information from the Indians from the Interior.

DR. SCOTT: Their views have been fully expressed. It does not seem to me reasonable to ask that all the original water records should be made a matter of record in these proceedings.

MR. KELLY: Well, I take it, gentlemen, speaking personally, that in dealing with the different districts where irrigation is necessary, no doubt the Department Officials are going into the history of every case.

MR. DETCHBURN: That is right.

MR. KELLY: And all these records are filed in the proper place. So I do not know that it will serve any good purpose in recording the records, as they are already on the schedule of Indian Reserves for the Dominion, for the year ending March 31st, 1913.

MR. DETCHBURN: These are not records, these are allotments made by the old allotting Commissioners; and the Government of British Columbia held that these have no validity except within the Railway Belt. Outside the Railway Belt, under the British Columbia Water Act, they say that the Indian Re-



serve Commissioners' allotment---they do not recognize it at all. And we have had to cover those with applications, as we did away back in 1868.

MR. KELLY: But we have this assurance that you are pressing this matter as far as you can press it.

MR. DITCHBURN: Certainly; as far as it can possibly go.

MR. KELLY: Especially in those localities where it is a crying need, and natural need, such as Kamloops, and other places in that vicinity. We have been stressing the water situation, because it is so important to the Interior Indians there. You have recognized that. I do not think that we are wasting time when we speak about the water situation in the interior. Just as the fishing is to the coast Indians so the water is of greatest interest to the interior Indians, as their life depends upon that.

Now I have noted down here, grazing lands. Once again, personally speaking, I must confess I am not as well informed as I would like to be. Our friend Mr. Teit used to deal with that, and we left everything to him; and he was the man that was conversant with the needs of the interior, and he made that his special interest. But, generally speaking, our friends from the interior have been stressing their need of more grazing lands; and as we are dealing with the general of that we think that it may be just as well that we look into that in a more particular way.

MR. DITCHBURN: Possibly I can anticipate just what you are going to say in that matter; and I have made a little note;---if that will help you out any.

MR. KELLY: Yes, glad to have it.

MR. DITCHBURN: I may say that this matter of the grazing rights of the Indians I think I have taken care of very fully; While there is nothing but W.E.D.  
W.E.D. particulars in the schedule of the report there in regard to grazing lands, except a very large grazing reserve given to the Lower Similkameen Indians, about fifty thousand acres; there are and have been set aside, so far, grazing areas for both the Upper and Lower Similkameen Indians. That is in the Okanagan Agency.

Now in the Kamloops Agency, the Lower Nicola, Ashcroft, Bonaparte, Cook's Ferry, Shuswap, <sup>mission</sup> Macoun W.E.D. and Adams Lake Reserves, grazing areas are being set aside by the Dominion Government. That comes within the Railway Belt. For the Upper Nicola Indians, Mr. Mackenzie has promised, here, that he will do his best to establish a horse range for the Tribe. That is outside of the Railway Belt. In the Kootenay Agency, a large grazing area is set aside for the Lower Kootenay Tribe at or near Creston. Also a large grazing area is being set aside for the Shuswap and the *St. Mary's* W.E.D. Indians on the St. Mary's Reserve.

W.E.D. In the William's <sup>Lake</sup> ~~Frank~~ Agency the Anaham Flats and Neenachah Valley are being taken care of.

And as further necessities crop up, so will the grazing Commissioner for the Province of British Columbia set aside other grazing areas.

In the Kootenay District Mr. Mackenzie has promised to set aside something for the Fountain

Indians. That matter was brought before me at a recent trip to the Fountain; and I immediately took it up with Mr. Mackenzie, the grazing Commissioner, and he says there is no reason why he should not set aside some lands, grazing area, for the Fountain Indians—although, mark you, they have got very few cattle, But Tom Delate <sup>Adelphi</sup> said if they had more land they would get more cattle.

Just touching on the grazing situation, I might make a remark in reply to a statement made by Mr Kelly, that information had been given to him from Indians of the interior that their cattle were not as good as those of the white people who range their cattle on the Crown lands of the Province.

MR. KELLY: That applied to Lower Similkameen in particular.

MR. DITCHBURN: I will tell you. it is not water—the claim was put on the lack of water, that they did not have sufficient water to graze their stock, for their cattle to drink, consequently their cattle did not compare favorably with those of the white people who ranged their cattle on the white ranges—that was the sense of your remark; you blamed it on the water situation. Now it is not the water situation at all, as I explained to Teit many times previous to his death. The trouble with the Indian cattle is this; that they allow their best ranges to be taken up by a lot of Cayuse horses that have no commercial value at all,—and they would be far better off if they would kill every one of them.

They have no commercial value, and they take one and a quarter as much per head as cattle. And then they expect the Government of British Columbia to set aside new range lands for them, when their own best ranges are being eaten up by horses that have no commercial value. That is a fact. Now, what makes the white man's cattle better than the Indians' cattle, on the protected range is this?

On the Government range as protected, they charge thirty-five cents a head for seven months grazing; that means \$1.05 a year on each head of cattle.

I am glad for you to acknowledge that the white man's cattle are better than the Indians' cattle, because that shows you the value of taking part in these Government protected ranges. The Government have set aside certain ranges, and they protect them with fences, water holes, and watch burning; and it is generally recognized that any cattle that are grazing in these Government protected ranges have got the greater selling value, by more than the amount of money paid in range fees.

I have explained that all to Mr. Toit fully before—although I don't think he ever wanted to acknowledge it. But if the Indian wants to raise good cattle on his own ranges, he must endeavour to get rid of a lot of his old worthless Cayuse horses.

MR. O'MHARA: Would Mr. Ditchburn explain what right is conferred by setting aside range areas for <sup>them</sup> ~~here~~? W.E.D.

What sort of right is it?

MR. DITCHBURN: <sup>Perpetual</sup> Per-head grazing, as long as they want to use it for that purpose.

MR. O'MEARA: A system now existing in the Province?

MR. DITCHBURN: Yes; under the grazing Commissioner's powers. It is desirable to keep the Indians' cattle and horses separate and distinct from the white man's cattle, when they <sup>don't</sup> want them to pay fees.

W.E.D.

MR. O'MEARA: Those lands do not become in any sense an Indian Reserve?

MR. DITCHBURN: No.

W.E.D.

MR. O'MEARA: But a <sup>perpetual</sup> per-head right of grazing?

MR. DITCHBURN: Yes, as long as they want to use them for grazing purposes. I want to make that clear.

There is one permanent grazing reserve now in lieu of the one applied for by the Commission.

MR. KELLY: The Indians say that they raise horses because they are necessary, and they realize good profits through the sale of those horses that are being raised. I was just asking one—for instance, he and his father have five hundred head of cattle, and he says they have between forty-five and fifty head of horses.

MR. DITCHBURN: That is all right; Narcisse has got a good farm.

MR. KELLY: Not Cayuses, but thoroughbred horses,——bought a stallion for the purpose of breeding good stock; and he says that that is generally with all the other Indians, that their horses are not the scrub kind of horses, but better grade of horses.

W.E.D.

MR. DITCHBURN: There are a few cases, as Narcisse and his <sup>father</sup> brother, Johnny ~~Billihenna~~ <sup>Billihenna</sup>, in the Upper Nicola; they raise good stock; not Cayuses; but there are a lot of places where the Indians have

these Cayuse horses; and they are eating up nineteen acres of range where a cow only used thirteen.

MR. KELLY: Is that the estimate?

MR. DITCHBURN: Yes; nineteen acres for a horse; and thirteen acres for a head of cattle.

MR. KELLY: I did not quite catch what the Chief Inspector/said<sup>ham</sup> about the acreage of the grazing; did you say fifty thousand acres of grazing lands?

MR. DITCHBURN: Yes, you will see it; look in the Akanagan, you will see that new reservation there.

There was a reserve asked for by <sup>Bertie Allison</sup> ~~Bunge Allison~~, W.E.D. and it was found undesirable to give that, but they gave another very large area, about fifty thousand acres there; you can figure out the dimensions of it.

MR. KELLY: Upper Similkameen, is it not?

MR. DITCHBURN: Yes, It is all written in there.

MR. KELLY: It does not give the areas, but the boundaries.

MR. DITCHBURN: Yes; it works out about fifty thousand acres. I think this other was only about three thousand. You see it is scratched out there in

W.E.D. the supplement. *Schedule*

MR. KELLY: Yes, I see that; 2,600.

MR. DITCHBURN: Well, they got about fifty thousand instead of that.

MR. KELLY: Have you any idea, Mr. Ditchburn, what the total area is of all the grazing lands that have been set apart?

MR. DITCHBURN: I couldn't say now.

MR. KELLY: In this one instance I think that is

not grazing land, but a reserve.

MR. DITCHBURN: Yes, a reserve.

MR. KELLY: Would we be safe in saying, for instance, making a rough estimate, approximately one hundred thousand acres have been set apart?

MR. DITCHBURN: Yes, you are perfectly safe in saying three hundred thousand acres. One area they set aside at Anaham Flats Reserve, ran into about two or three hundred thousand acres alone.

MR. KELLY: This is valuable information as far as we are concerned. We are not simply asking this for the sake of asking questions. If these matters were known to our friends from the Interior, as far as I am concerned I have heard very little about it—about these additional grazing lands. In this <sup>Mr. Ditchburn,</sup> generally known to the Indians, or is it just a new thing being set apart now?

MR. DITCHBURN: It is just completed, in this report.

MR. KELLY: It has not been told the Indians; that is to say, they have not been told that they are entitled to use it right now?

MR. DITCHBURN: Yes, Mr. Ball, the Indian Agent at

Vernon has been informed to that effect. And Mr. Kelly, you <sup>could</sup> <sup>all</sup> ~~will~~ have had that information when <sup>if</sup> you <sup>came</sup> ~~came~~ to see that schedule; and the Minister wrote to you back in May saying the schedule was ready for your perusal.

MR. KELLY: Yes, I knew; but in the absence of confirmation of a supplemental list coming on top of that, we did not quite know; you see. Narcisse

here does not seem to know this—this fifty thousand acres that comes out of his district, you see.

MR. MITCHEBURN: Yes; and there is a reserve up Bear Creek, and Sterling Creek, for the Lower Similkameen. I think you can ~~xxxx~~ rest confident that Mr. Mackenzie, the grazing Commissioner, and his deputies, are looking out for the interests of the Indians; because they want to see that the Indian has sufficient grazing area without having any conflict with the white stock-raiser. They fully realize the Indians' necessity in this regard.

MR. KELLY: Of course the allotting of their grazing lands I suppose, was left in the hands of their local Indian Agent; or is it left in the hands of the Chief?

MR. MITCHEBURN: The Grazing Commissioner of the Government of British Columbia—

MR. KELLY: What I mean is this, after it has been set apart, for instance this fifty thousand acres that has been set apart, there are a number of Indians scattered through that district; how is it managed; are they told just to turn their cattle in?

MR. MITCHEBURN: The joint use of the Indians of those particular bands there.

MR. KELLY: The Lower Similkameen people say that while the Upper Similkameen profit by it, it is too far from them to have any help.

MR. MITCHEBURN: But the Lower Similkameen Indians have also got grazing area set aside; I think it is up Sterling Creek and Bear Creek, if I remember



correctly---I have got all the name over in my office---and on Snohumpson Creek.

MR. KELLY: Has anything been done about the Okanagan River District, in the way of grazing land?

MR. DITCHBURN: What do you mean by the Okanagan River District, do you want the Osoyoos, apart from Batiste's own place?

MR. KELLY: The Similkameen and Okanagan are different reserves, and Narcisse says it is thirty miles across from one to the other.

MR. DITCHBURN: Narcisse, on his own reservation, there, has got thirty-three thousand acres of land; the bulk of which is grazing land. I suppose the Grazing Commissioner did not consider that they wanted anything.

MR. KELLY: The representation made by them of course is that two-thirds of that reservation is rocky.

MR. DITCHBURN: Yes, that is a fact, too.

MR. KELLY: That is to say, that out of that thirty-two thousand, about ten thousand acres would be grazing land?

MR. DITCHBURN: Yes; and there is no end to the country right behind the reservation, of the same character. It is fairly good grazing. But they have not got any bottom land, that is the trouble with the Osoyoos Indians---they have not got but very little bottom land.

MR. KELLY: Would it be possible for the Grazing Commissioner to consider additional grazing lands there?

MR. DITCHBURN: It is impossible to get it.

MR. KELLY: You were just saying that there was no limit to the back.

MR. DITCHBURN: But that is going away up the hill. We tried to make an exchange; the Provincial Government offered us two or three acres for one for a bit of stuff; but after looking into the situation I could not assent to it at all. If they could give some bottom land the change might have been desirable. But what Narcisse really needs down there is bottom land, and it is not available. It is adjoining the townsite of Oliver.

MR. KELLY: Then they have got the best of the grazing land there?

MR. DITCHBURN: They have got all that is available, except private property, yes.

MR. KELLY: Well, it seems, Mr. Ditchburn, that they have applied for grazing lands then in addition to what they have. And if it is possible at all they would like to get it. They would like to pay for it.

MR. DITCHBURN: If it is possible, if it is found they really need it, I feel absolutely confident Mr. Mackenzie will have some allotted for them. The only application the Osoyoos Indians made was for an enlargement of the Reserves, so that it shall extend to the Okanagan River; application being based on the claim that intervening land has been improperly excluded from the reserve.

MR. KELLY: That is in the bottom?

MR. DITCHBURN: That is in the bottom land; they come right down, and they <sup>touch</sup> the river in some places; but in other places it moved away. It is

an old sore spot among the Indians; and I feel that they really feel they have a grievance in that regard, that either by mistake or intent, in early days they were shut out from their water.

MR. KELLY: That is the water frontage has been taken away from them?

MR. DITCHBURN: They touch on Ogoyees Creek, but they do not come to the river, hardly, only in one or two little spots.

MR. KELLY: Yes, I see that on the map here.

MR. DITCHBURN: This is private property; you cannot take it away from people. The matter was fought out in 1878 with the Government of British Columbia.

MR. KELLY: Well, I don't know that we need to belabor that point further; only the people from that section are pressing for more grazing lands, you know, claiming that this thirty-two thousand acre reserve, although it appears a very large one, is not of a great deal of value; two-thirds of that consists of rock.

MR. DITCHBURN: But nevertheless the reserve goes back up the hill; and at the back it is still hill, and all kinds of country up there for their cattle to go into. But that is not what we would have liked to have got for them, we would have liked to have got some bottom land; but it was absolutely out of the question.

MR. KELLY: Well, I don't think there is anything more to be said on that just now. I will pass on to another matter.

We will pass on to this thorny question of

fishing rights.

DR. SCOTT: Will you make a general statement, Mr. Kelly? That is a question which refers only to certain districts.

MR. KELLY: Yes, Page 13, Paragraph 13 there is reference made to it.

DR. SCOTT: Will you explain this, what do you mean by fishing rights? What do the Indians claim generally? They claim the right to take fish for food purposes generally, everywhere?

MR. KELLY: Since this is for an official record, I would just like to collect my own thoughts on it.

DR. SCOTT: Could not Mr. Reid speak for the Northern Indians? He knows the conditions up there perfectly well. It could be put in half a dozen sentences, the claims, the rights, without arguing them at all—because the argument is not valuable now; the valuable thing is to ascertain what you consider your fishing rights.

MR. KELLY: The fishing question is a burning one, and it does not just affect one particular section of the Province, but it applies to the Province as a whole. For instance, the Interior Indians along the banks of the Fraser and Thompson Rivers, have their complaint about being hindered from catching fish from time to time. And the Indian on the coast here, who is dependent upon for his livelihood upon the fishing industry, has the same complaint.

I want to talk first about what we claim the domestic needs of the Indians, as far as tak-

ing salmon for food is concerned. I have before me a statement that was prepared on that particular subject some time ago; I will read from that:

"The Allied Tribes claim that they have a clear aboriginal right to take salmon for food; that right the Indian Tribes have continuously exercised from time immemorial. Before the Dominion of Canada came into existence, that right was guaranteed by Imperial enactment, the Royal Proclamation issued in the year 1763. The Allied Tribes claim that under the Proclamation, and another Imperial Enactment, Section 109 of the British North America Act, all power held by the Parliament of Canada for regulating the fishing rights of British Columbia is subject to their right of fishing."

Now I think that in a brief way sums up the whole situation. As it is said here, we claim the right to take fish for food at all times; from any of the creeks where Indians have been in the habit of catching fish for food—salmon for food.

Now within recent years the Indians have been suffering a certain amount of hardship in that. Almost every Indian Agent I think can report cases where the Indians have been held up, where fisheries officials have seen and summarised Indians to Court for catching salmon for food. Fines have been paid. I am just thinking of one particular instance in Nanaimo only last year, where two parties have gone up the Nanaimo River and speared salmon for food; they had I think two salmon in the canoe, one was on the beach; and they were brought before the Magistrate,

and they were fined. It was not very much, but they were fined, nevertheless. I think they paid something like five or six dollars apiece. But for taking a food which they thought they had a perfect right to take. Now that sort of a story can come from all parts of the Province. Our friends from the Fraser River have the same story to tell, where wagons have been confiscated, teams of horses have been confiscated, because they were hauling salmon from one reserve to another—from the river to the reserves.

This is just a little note about a similar trouble to what I have been reciting just now; this comes from the West Coast, where an old Indian had been catching fish for food at Chewatt River. He was fined ten dollars. Now the Chief thinks it was a mistake, and wants his money back if possible; because he didn't see there was anything wrong in catching fish for food; as he had been in the habit of doing from childhood. He was simply hauled up before the Magistrate and made to pay the fine. In fact the old man is in this room, sitting back on the floor here. A man crippled in one leg, absolutely incapable of earning anything at all in the way of making a livelihood. I think cases like that work real hardship on the Indians. I am not willing to admit anything at all, but I can see the justice from the fisheries' point of view of perhaps being a little severe on young men who are physically able to earn good living from other sources; but when it comes to being severe on old Indians, we think it has just simply gone beyond

the limits of reason. But, as I have read just now, we claim that we have a clear aboriginal right to catch salmon for food any time we want to. That was granted by the Royal Proclamation in 1763, and was confirmed I think by the British North America Act.

Now, so much for that. I would like to say before departing from that; that that will always be a thorny question, here; if it is not settled one way or the other; the Indians will never be convinced, and I am inclined to think that they have perfect right to contend that they are entitled by every right, to take food for their own use. You will never convince an Indian that he has forfeited that right, or that that right has been taken away from him.

MR. MITCHELL: May I interrupt just to say, with regard to the letter you have just read, by old Tom Oleshial who is sitting on the floor back there,—you did not state in what manner he was taking those fish; I think he was prosecuted for trap fishing on the river, which is against the regulations; not for obtaining fish for food purposes—just for having a trap.

MR. KELLY: "Chief Tom Oleshial got into trouble for trying to catch food fish for his own use in the Shewatt River, and was fined ten dollars. Now the Chief thinks it was a mistake and wants his money back if possible. Help him as much as you can." It does not say how the fishes were caught, whether it was by net or by spear, or

any other method.

MR. MITCHELL: He was using a trap, if I am not mistaken; and has used a trap for many many years there; and he thought he had that continuous right, but he was warned by the Fisheries Officers, and eventually fined for still continuing to use the trap.

MR. KELLY: Now, talking about commercial fishing; we, once again, think that it is asking the Indian perhaps a little more than is fair, when you ask him to pay for instance \$5 for a license for trolling purposes. I think it is only within recent years that he is compelled to pay license for trolling purposes. Before that time, as I remember it, the Indians had perfect freedom in trolling for salmon, and selling salmon to the canneries. There was no objection made to that at all. It is just within recent years, I think within the past five or or six years, that the matter of license has been enforced. And now he is asked to pay so much for license before he can troll for salmon to sell. We claim that the Indian should have the right for trolling for salmon and selling them to whom he wishes, whether it is to the cannery, or whether it is to the individual members of the community in which he lives. That right of course at the present time is denied him. He is allowed to troll for salmon for his own use without paying a license. He can go to the Fisheries Inspector and obtain a permit, and under that permit he is allowed to go out and troll for domestic purposes; but he can never sell; the



moment he is caught selling salmon, using that freedom, of course his gear will be confiscated, and he suffers for it. Now that is so much for trolling.

Then the larger use of commercial fishing, where the Indian thinks he is very much discriminated against is this, that he is not allowed to get a seine license—he cannot buy a seine license. It is admitted by fishermen, by cannery men, by men who are engaged in the business, that the Indian is a first-class fisherman. I know whereof I speak, especially in the northern part of this coast; there Indians crews who have been doing that same work all their lives, every summer, they have come back to that same spot, and they use a seine; and if experience can teach anything at all, they certainly have learned by experience how to use the seine net. But strange to say, during those years, they have been denied the privilege of buying their own seine net license—not because they are not able to pay for it; I do not know how the practice came into vogue, but it exists, that we do know. The matter was brought up before the Fisheries Inquiry Board, the Duff Fisheries Commission of last year. I happened to be in Prince Rupert when that Board was sitting there, and it was brought before that Commission, at least this particular matter was brought before the Commission. And Maj. Hutterwell, the Chief Inspector of Fisheries for this Province frankly admitted that he knew of no

reason why the Indians should be denied this privilege. But he said that is the custom that exists, and we don't know why it exists, but it does exist, that we do know. Now that was the sum of his pronouncement on it. And we think that the Indians should have the same privilege as white men, or any other fisherman, to have his own license, to be put on equal footing with other fishermen, so he would reap full benefit from his labors.

I was told by a man who had been fishing in one spot for over thirty years—that is, that family had been using that one creek for thirty years—I am simply speaking for him as I have said a few things for my friend Narcisse here—he told me this, that for instance because the cannery bought seine net license for them they were paid I think something like fifteen cents per fish less than the other fishermen were getting; that is to say, the independent fishermen who had their own license were getting seventy-five cents for the white men and Jap fishermen, and fifty cents for the Indians—whether this is absolutely correct—but what he said was seventy-five cents for the independent fishermen, white men and Japs included; but the Indian, because the cannery bought his license, and held the license, was paid, my friend says, fifty cents, or I think it was sixty cents—fifteen cents less—but there was a great difference; and he caught during the last season, that is up to that time something like, speaking from memory ten thousand

salmon. Because he was not allowed to buy his own license he had to forfeit that extra sum of money which he really had earned. It was depriving him of a thing that he had really earned. Now the cannery manager I think pays \$300 for the seine license; and because of that, for one season, he reaps a clear profit sometimes of \$1500 or \$2000. Now we claim that is an absolute injustice.

DR. SCOTT: Does the Indian own his own boats and net?

MR. KELLY: Yes, he has his own boats and nets. He has his own crew. He has everything with the exception of the license; and because of that he gets less per fish.

MR. MITCHELL: That is Arthur Collinson?

MR. KELLY: Yes.

MR. MITCHELL: He did not own his own nets, did he?

MR. KELLY: Excuse me, I want to be correct on that; his son was the man who was sitting next to me; and he says they own their own gear, net, gasoline boat, and everything that is necessary, with the exception of the license. I know Mr. Curtis, the manager of the lower cannery, took exceptions to that. And I questioned other Indians who fished for Curtis, for the same cannery, and they all came out strong and said what was said before that, was the truth, although it was denied by the cannery manager—that the Indians had got less than the independent fishermen, because they cannot get license. I do not know what the Duff Commission has said about that, I do not know if they have

recommended any changes, in that particular matter. I have not heard.

MR. DETMERS: Mr. Duff said that they investigated that complaint of Collinson, and they found it was not as stated.

MR. KELLY: Well, of course, if they have investigated the matter and found it was not true, it was simply the word of the manager against the word of the Indians.

DR. SCOTT: Well, there ought to have been some other evidence which would lead the Commissioner to say it was not proven.

MR. KELLY: But the trouble was this, the Commission was sitting in Prince Rupert right in the midst of the fishing season; the fishermen were busy, and they could not leave their work one day to come in. It meant coming long distances; in fact it meant losing three or four days fishing, for a great many of them, and they did not want to do it; especially the men interested in the creeks, they must be on the job morning noon and night; they have to put out their nets at a certain stage of the tide and it meant staying on the job all the time,—they cannot get away. This man Young Collinson came in because his father was on the job, and his father sent him; and he of course appeared before the Commission.

But, generally speaking, that is true. I think if necessary, that that statement can be substantiated, not only from that particular section of the country, but from all the dif-

ferent sections of this coast. That can be substantiated without any fear of real contradiction.

There are a number of Indians up and down this coast; and wherever there is a large stream usually there are enough Indians to man a seine to operate at the mouth of that stream. They feel that there is a great deal of injustice, when instead of giving that license to the Indians who think they are entitled to it, the cannery manager goes to work and hires a crew of Japanese fishermen, and gives them a license in preference to the Indians. And that is a general complaint, I may say.

In Masset Inlet, Queen Charlotte Islands, the Indians have worked a bluff on the Japanese fishermen; and it is working well up to the present time; how much longer it is going to work I do not know. But when fishermen came into that Inlet the Indians united their forces, all the launches came together, and the fishermen came together and they went to the Japanese fishermen and told them to get out, they were not wanted in that district, and they were not going to allow them to fish in that inlet; they told them if they came there to fish they were going to use force to drive them out. At first the Japanese fishermen ignored that; but a few days later the Indians came again, and when the Japanese started to fish they did use force, and they used it in such a way that the Japanese thought it was well to get out; and he got out and has kept

away since. Now that is what they told me; I have not seen it. The fact remains that there are no Japanese fishermen in that inlet; they claim that is the reason. And the Indians operate all the seines in the Masset Inlet, and making good. The cannery works to full capacity.

Now that would be true of all the other sections of the Province—in Skidegate Inlet perhaps they were not as aggressive there as the Masset Indians were—where they have plenty of Indians to man their crews, and quite able to handle the seine, there are a number of Japanese crews with seines given them; I think, if my memory serves me right, there are only two Indian crews in that district who are operating seines. All the rest were given to Japanese fishermen. Some of the Indians were told to go to work with the Japanese crew and they would not do it; they told them that they were not going to do that. Now they feel that very keenly. They said it would be quite all right for the cannery men to hire Japanese fishermen, if there were no Indians who were capable of working those seines; but why go over their heads, when their wives and daughters—when the Indian women are working in the canneries, and are staying right on the ground that the Indian men are denied the right of using a seine. And it yields a rich harvest to the fishermen. That has been a very very thorny question. The Indians feel that keenly. And I do not think they ever will get over that. I do not think there is any-

thing that can be done that would do away with the feeling of injustice on that particular matter. They want to be put on an equal footing with the white fishermen, or with the Japanese fishermen. They cannot see why they should not be put on equal footing. I do not know if it is necessary for me to say any more than just tell these facts. Now the Indians claim that they never will be content unless they are put on equal footing with the other fishermen.

Then there is another matter that I wish to speak about. It is what the United States Government has done for the Indians in Southern Alaska. I do not know fully just what the conditions are, but I do know this; around Annette Island in the Metlakatla, waters surrounding that island have been reserved for the Indians; they go and fish there; they fish for their own use, and they fish for commercial purposes; they have a perfect right to do whatever they want to do with all the fish caught in that area. It is reserved for them, it is theirs to do as they see fit. And I am just now told that they have bought the cannery that is there, so that they are going to operate the cannery themselves. Is it impossible for the Canadian Government to do something like that? Now this is only for one small band of Indians. And nothing like that has ever been attempted I think on this side---to give the Indian any protection as far as fishing matters are concerned. We have been emphasising the need

of more grazing lands and irrigation for the interior Indians; and we cannot emphasize too strongly the need of certain fishing concessions to the Indians of the Coast; because his living depends on that, and will depend upon that for many years to come.

Now I think this is just a general statement that I wish to make on that. No doubt the other members of the executive will have more to say on that.

MR. PAUL: I think the great complaint on account of the fishing privileges of the Indians is on account of the regulations that prohibit the Indians from taking fish for food, in an unlimited area. I am reading from a statement that was prepared by the late J. A. Tait, who was then a special agent for the Allied Tribes.

"Although the Dominion Government has the power to regulate the fisheries the Tribes claim it has no power to regulate the Indian rights out of existence.

"The British Columbia Government to judge by the utterances of its officials acknowledges that 'the right of the Indians to take salmon is unquestioned' (see Report of the Commissioner of Fisheries for the Province of British Columbia 1917 pages 11 and 12). On the other hand the Dominion Government ignores this right."

"The sentiment of all classes of white persons in British Columbia, including magistrates, police, fishery officers, Indian Agents, lawyers, merchants, traders and ranchers is entirely in



sympathy with the Indians in the matter of this prohibition, and opposed to any law which would prevent the Indians from obtaining their natural and necessary food.

"The Indians along Fraser River and in neighboring parts of the country affected by the prohibition have reserves consisting of numerous small pieces of inferior land, quite insufficient for their purposes. Owing to the rocky and mountainous character of the country and consequent scarcity of good land in the region it is impossible to enlarge these reservations and thus enable the Indians to maintain themselves by agriculture and stock raising. It is therefore for very many of the Indians of the region a prime necessity to have access to the salmon for food.

"At the present time the Indians, especially the old men and certain families, are compelled by necessity to continue taking salmon for food, and very considerable fishing is carried on notwithstanding the prohibition.

"The Indians are compelled by necessity to break the law, and many white persons knowing their necessity and considering the prohibition unjustifiable, advise them to continue taking the food they require. This has a tendency to bring laws as a whole into disrepute, and is injurious to the morals of the Indians who, as a race, are naturally law-abiding."

"To thoroughly police the Fraser River and its tributaries so as to prevent all fishing by

Indians would require a very considerable force of men.

"To supply hundreds or perhaps thousands of Indians with other food as a substitute for the salmon, or even to supply them with salt and smoked salmon from the Coast, would cost the Government a great deal of money.

"To allow the Indians to fish for food or otherwise as has been their wont to take the comparatively small number of salmon required by them for food would cost the Government nothing, and would not materially affect the replenishment of the Fraser River?

"The Indians consider that if it is necessary to put into effect restrictions for the preservation of the salmon in the Fraser River such restrictions should be placed upon the canneries and traps of the big fishing interests. These interests are chiefly responsible for the depletion of the river, and for over a generation have made all the money out of the fish. Upon them, and not upon the Indians, who need the salmon for food, should rest the burden of all restrictions.

"It is generally recognized that no adequate restrictions have been put upon the fishing of white persons at the mouth of the river, and that only the small amount required by the Indians for food has been taken from them without any resulting adequate advantage in connection with the replenishment of the river. This point was dealt with by some of the Senators in discussions which

took place at Ottawa last year. According to the Indian view every salmon caught by white persons at the mouth of the Fraser River is almost, if not quite as great a loss and as potential a factor in the replenishment of the River as one caught by an Indian some distance above tidal waters.

"It seems clear that the friction and resentment engendered among the Indians by the enactment of the prohibition which is the subject of these notes would alone be an insurmountable barrier standing in the way of any settlement of the Indian land controversy."

Now referring to some treaties that were made between some of the Indians and the Hudson Bay Company, one of the conditions of that treaty is as follows, "It is also understood that we are at liberty to hunt over the uninhabited lands and to carry on our fisheries as formerly." Now it is submitted by the Indians that that understanding has not been adhered to. These treaties were entered into between the Hudson Bay Company and the co-operative Tribe of Kwakwaka'wakw, of Fort Rupert.. In other treaties made between that company and the Indians, in the lower part of Vancouver Island, as between the Saanich Indians, that clause is also inserted in those treaties. But the regulations have prohibited the Indians from exercising that right that they were to have; which was that they would carry on their fisheries as formerly.

Now this matter seems to be one that can be

adjusted by the Dominion Government. I had the honour to appear before the fishing Commissioner last year. And he said this, that this was a matter for the Parliament of Canada. And I think I would represent the views of the people in asking the Department to bring it about, that the Indians would be given the rights to take fish for food wherever and whenever they desire. That is I think the wish of the people. And especially on the foreshores of their very reserves. I have been told that on the West Coast foreigners have come on the foreshores of reserves and just scooped the fish away in seine nets, drag nets, and every sort of nets; in the very mouth of the creeks that the Indians are prohibited to take even one fish out of the creek. Now that is an injustice in the minds of the Indians. The people of the West Coast are very desirous that they should be given unlimited fishing privileges, to take fish for food in all the streams flowing into the West Coast of Vancouver Island.

They also ask that they be permitted to take fish with their traps. Some of the older men are accustomed to that system of taking fish.

But when I say taking fish in the reserves, we do not mean that we will take more than our actual need for food; it is only for our purposes to have sufficient food so that the Indians would have food for the winter. Especially on the West Coast not being populated by the white people as much as other sections of the

country, it is very hard for those people to earn a living. The only time that they make any amount of money is when they troll for fish.

In the Clayoquot there is hardly anything doing whereby they could get money with which to purchase food from the stores.

There is another demand by the West Coast people, and that is in connection with the catching of fur seals. They have to go a great distance. I will leave it with the Chairman to deal with that.

It is desired by the people in the Cowichan Agency to have the privilege of taking fish for food at Cowichan Bay and Saanich Arm, and especially on the very freshwaters of their reserves. There have been times that some of the Indians have been fined for taking fish on the very shore of I think the Quamichan Reserve for the Cowichan Reserve. The Indians in the Saanich Arm desire the privilege of taking fish for food in the Saanich Arm and in the Goldstream River. It will be noted that it is on record that there is sufficient fishing station for the Indians at the mouth of the Goldstream Creek flowing into Saanich Arm. The Indians formerly put up fish for the winter at that station. The regulations of today prohibit them from doing so.

Fish is a very staple food for the Indians, and it is desired that as early as possible the regulations be so amended that they will be given that privilege, to take fish for food whenever and wherever they desire. The

Indians claim that they have that right.

Now the Indians on the West Coast have been made, according to the regulations, to pay a license of five dollars per man to troll for salmon for commercial purposes. And other Indians with gas boats, power boats, white men, Japs, and other people have to pay the same amount for license. Now the Indians with primitive canoes cannot be expected to catch as many fish as the man with the modern power boat. And the Indians advance this argument, that it is not fair for the old Indian who goes out to the water to get a few fish, because he cannot catch the same amount of fish as the man in the power boat who has several lines attached to his boat, whereas the Indian has only one line. Now there are times that there is more than one Indian in the power boat or in the canoe. And the Indians object to the demand by the fishery officers that every one in that boat should pay a license. I think there are two in each boat. They do not see any reason why they should pay license for trolling.

This may be an opportune time to lodge the Indians' protest against the Japanese fishermen who are getting more of the control of the fisheries commercially, and they are the cause of some of the fish becoming extinct. Because they are exporting dog salmon to Japan—which is one of the principal foods of the Indians. The Indians object to any fishing by drag <sup>seines</sup> ~~snags~~ or other methods on the foreshores of their reserves.

They strongly object to that.

I don't suppose it is any use reciting about the prosecutions that have been made. They have been only too numerous to satisfy the Indians.

At the time of the advent of the white people into this country the Indians were given to understand for all time to come the privilege to take fish for food. Now while the Indians cannot present anything in writing to that effect, that is in their mind. And civilization or education will never erase that out of their minds, that they were the aborigines in the country, and they should not in time to come be deprived of the right to take fish that they use for their food.

MR. MATTHEWSON: I have a few things to urge on behalf of the Indians of the Lower Fraser. They claim and want to maintain the right of fishing salmon and other fish for food in Fraser River and in all streams and lakes in their own tribal territories, as has been their wont. And also they want to catch salmon for food in their old fishing grounds, whether these grounds are in the tribal territory or outside of the tribal territory. They want to have the privilege of competing to catch salmon for food in their old fishing grounds.

MR. REID: Speaking on Behalf of the Northern Indians, the main points have been well covered by the previous speakers. The point I wish to speak on at this present moment is in the way of catch-

ing fish. Now I am speaking wholly on domestic fish, the method of catching fish for domestic purposes. This domestic fish is, as a rule, caught on the way up the streams; that is for their own use; the fish they catch down in the salt water is for commercial purposes, but for their own use, they go up the river to catch the fish. Now the Indians do not know how to fish with hook and line, or fly-hook; the only way they know how to catch fish is to ~~is to~~ make a trap or use a spear. The spear is the most handy thing in use to catch a fish; it is a sort of a spear with a hook on it; they throw it out, and some of them have a hook that they pull to them. Now I know of cases where Indians have been prosecuted for using this. Now I think, in my opinion, and the opinion of the Indians, that that is an injustice to prosecute an Indian for catching fish in the only way that he knows how to catch them. Right in and around Vancouver I know of where some Indians have been taken up into Courts and been put to a lot of inconvenience for what they call digging salmon in the creeks. The Indians of Northern British Columbia think that they should be allowed to continue to catch fish in their old way, and not having the Government make the various different laws, and say you must catch fish this way or that way, and if you don't catch them that way, but catch them in some other way, we are going to prosecute you. The Indians think there is an injustice there; and they would like to con-



time to have the privilege of catching fish for their own personal use, in the same way <sup>as</sup> they have been used to doing it.

MR. ELLIOTT: They say when we are caught catching fish that we are violating laws. They say that when we catch fish on the river we are exterminating the fish, and that is the reason we are prosecuted. I want to point out that we are not doing any more harm than the white man. We see the white man laying traps along the country to catch fish; they can the fish and ship it to foreign markets. We do not do that. We catch the fish and even if we sell it to the white man, we sell it in the country, and the fish is consumed in the country. We are not doing any harm. When we catch the salmon in the river they say we destroy fish that is going up the river to spawn. We admit that. But then, what is the difference, when the white man goes up in the rivers, and as the little trout come down the stream, going down to the salt water, the white man catches it with a fly-hook; and not only one white man, but hundreds of men are coming around our village catching fish that way. Who is the one that is doing the most harm, the white <sup>man</sup> or the Indian? I think the white man. So I think it is a very unjust thing for the white man to be punishing us for catching salmon for food, and even for selling around the district. There are lots of old people in our neighborhood that cannot do

anything else but catch a few fish. And he is very anxious to exchange it for sugar or flour or something like that. We are not doing any harm.

And another thing I would like to speak on, that is Cowichan Bay. We claim that belongs to the Indians. The Indian has a right to that Bay with the land surrounding it. There are a few white men living over there on the salt water, but a white person amongst Indians has nothing to say. I don't see why we should be prosecuted on any grounds at all. I don't think there is any justice that we should be prosecuted. I admit that the fish should be protected in some way. But why not white men stop all this canning and shipping it away from the country? It is depriving the people of the country of the food. That is what I think about it.

MRS. COCK: I think that as I am delegated to come down on this fishing question, that I ought to say a few words in regard to our locality, that is the Rupert District and the Kwakwaka Agency. We were asked to speak about our rights on the fishing question. We are part of the country. It is the rights that we have been deprived of we want to speak of, not the rights which we have now. We have constitutional rights, our rights as Indians. But we have to now speak about the rights that the Government, and the people of Canada have deprived us of,—our fishing for our food, in the old days when there were no white people in the country, but now today we

say we should have had that same fishing privileges that we had in those days, for commercial purposes today. Because the Indian cannot live alone on the fish; as he did in those days; he has got to buy other kinds of food. Well, he needs that, he really needs that industry that he had, for today, just the same as he did in those days, for his livelihood.

Now in our part of the country I think there has a lot of injustice been done; and our people believe it; they claim it. I will just speak of one place there, called the Nimpkish River; and there I will bring in the view that our people have in that fishing ground. Now, Mr. O'Reilly came there and asked our people, What land do you want? Now our people are not agricultural people, they have no use; they don't know anything about that, they live altogether by the beach, and their livelihood is in the water. So when Mr. O'Reilly came there—and it was the same thing when the Royal Commission came there—they said, What do you want; what do you require? Well, one old Chief said ~~that~~, this is what we want, we want the both sides of this Nimpkish River, that we have lived by; we have lived by the river, and we have lived on the river, on the fish in that river; we want both sides of that river, the land, for our purposes. And it was reserved. Mr. Mitchburn will bear me out in this, that the reserve runs on both sides of the river, right down to the mouth of the river, right down to

the fishing grounds today. And the canneries operate on the foreshores of this Indian Reserve on both sides of the river; they cannot operate anywhere else, and get one fish out of that foreshore at that reserve. We did at one time agitate and try, these Nimpkish people, to get the rights of that foreshore, as they found themselves being crowded in; they lost the rights of that foreshore. At first the canneries did say, Well it may be the foreshores are yours, and we will treat you so well, and hire you to operate, because the foreshore may be yours. So that that Tribe operated on that river for forty years, some of the men fishing there today that fished on that river year by year for thirty years—operating for the cannery that is there. Now <sup>this</sup> is their complaint: Just because they are not the citizens, or not reckoned as citizens, they are not allowed to buy a seine license; so they lose a lot out on that, because the canneries pay them. First the cannery had the monopoly of that license; but the last two or three years other canneries have come in there and operated on that little river, they have been allowed by the Government to get licences out, and they are now fishing on that river, and the Indians are operating for them. And that is their complaint, that they cannot get seine licenses for themselves, after fishing there all these years. And they know how to fish; they learned the white man's way of fishing with the seine. But now they cannot buy

their own license for that seine there and fish for the cannery, which the cannery would be quite willing for them to do, because they want the fish, and they don't care whether they have the license or not. And cannery can go there and operate today, allowed so many licenses on that river. This year they were cut down to some number, but last year any white man citizen could go there, or a Jap, if he got a license, go there and use a seine there, but Indians had to operate it. Well, that is their complaint.

And another complaint is this, that they have not got the foreshore there to fish, where these seines are dragged on the foreshores of their reserve. You see that is another complaint they have;—and the others have been allowed to come and fish there. Now I know for a fact there is a company of Japs getting ready now to go in there; I came down on the same boat with the boss Jap of this company, on the boat when I came to Vancouver. And he told me, he said, I have contracted for so many thousands of tons of dog salmon, and I am going to operate; I have got the license, and I am going to get the fish. Just look at all that. The Indians will stand by and see the Japs go in there with license and operate—in another three weeks, he told me. He may be up there now, and he will operate; and our people who have no other means of getting a livelihood, will be sitting down there and just watching them operate; on this foreshore of their

reserve, and getting the dog salmon out of it,--- right up to Beaver Cove, and all around that coast there. I want to show you, and leave it to you to judge how our people feel about this fishing just there. And to show you that it is not the land that our people wanted in these days, they wanted the land on each side of their river so that they could have exclusive right to fish there for their food and for commercial purposes.

Now I will still go on with that river. Our people go away up the river there and get the fish for their winter supply. They have to get a permit now. They did not use to have to, but they do now. And they <sup>go</sup> up and fish right near the lake, up that river, for their winter's supply of food, or for the year round, really. And now if they go this fall will probably be the last year that they will be able to go there, because now we hear---I heard from good authority before that I came down, that/river will be dammed before another year is out, for the Beaver Cove Cement & Pulp Company is going to be formed there, they have taken over the Beaver Cove, and they will make the biggest ~~pulp~~ pulp concern on the coast, and they will dam that river, and use it for power for Beaver Cove. So that the Indians will not only lose their food, but they will lose the mouth of the river for commercial purposes. Because the Indians have told me that over and over again, there is not a river around this part of the coast--- Scott Cove for instance, and Powell River---that

that when the companies have dammed it, that no fishes go up there, the fishes are just gone. Now then that is what they complain. One complaint that was brought in to me last fall was this, that Scott's Cove ~~had~~ behind Cormorant Island had been dammed, and dog salmon and other fishes that had always gone up that river, after the river had been dammed by a company to bring some logs in, the fishes ceased coming; and the company have gone away and left that dam there. They left the dam there, and it has been there useless for years; they have finished operating there, and have left the dam there, and the fishes are gone. They have never even taken the dam away so that the fishes can come back there again—because the Indians say the fishes will come back. Our people know this, that if they dam that river, the sockeye, which is a big industry up there, and the spring salmon, another big industry up there, and our dog salmon also, will be gone. Now, that is for the Nimpkish River. And these are our people's complaint on that. That the Japs go in, and they are allowed to have licenses, while an Indian is not allowed, because he is not a citizen, or something—I think it is because he is not a citizen. I think that Mr. Ditchburn has found out about it—you could not get that license for years; could not even for gill-net fishing; but now they can get gill-net license, but not seine fishing. And the Japs have now got the privilege, but the Indian,

who was the original there, and to whom the reserve belongs, and who has had his food there from that river, cannot do so. And you can understand the sense of injustice that he has in that matter.

Now that is what we contend, that these interests of ours should be protected, in the matter of the Indians' food, and in the matter of commercial purposes; and that we should be protected from the Japs; and that it is about time that the Indian—of course as I say, in another year's time that river will not be there for either whites or Japs or Indians—but that we should be protected from the Japs somehow, we should be given a chance, anyhow. We do not ask anything too much; we are only asking the same privileges that are given to others—to citizens, so-called citizens of this country—we are the aborigines, which is not a citizen. That will make clear to you in that particular instance.

And it is the same up at Kingsome Inlet and river, and it is the same at Knight's Inlet and river. The same complaint all around. Mr. Ditchburn knows well that locality, and he knows those three or four big portions of our country there, that is the main livelihood of our Indians there, our Indians do not get anything only by fishing. Our men cannot make a living, and there is no money, and they have got to go off to the logging camps and log for their livelihood. But all men that are old and middle



aged, the only thing they know is how to fish; they go up to Hovers Inlet, they go and fish up there; and they say they are handicapped there. And then at home that is all that they do. They only work during that six weeks or may be a little more, and that is all the work they have for the whole year for their living. So that you will understand how very important this is.

Now, this is their complaint of the trolling; that an old Indian will have a canoe, with the canoe and paddle he will go off with one and sometimes two lines, that is as much as he can manage to drag, two lines with a paddle, and paddle along and troll. Well, there comes along a Jap with a gas boat, a powerful boat, and he will have a twenty foot red in the back of his powerful boat, and every foot of that red will have hooks, and that Jap will go along and he will drag those twenty hooks along there, and pass this one man in the canoe; and you can just imagine, yourself, how much fish he gets; but the Indian has got to pay the same license for his trolling that the other man does. That makes us have a sense of injustice, and it has made a lot of trouble up there with the men that are put there to look after the regulations. It has made a lot of trouble, and it would make more of that if it was not that some of us said, Oh well, just keep on, keep going, because I think we will get justice just as soon. If it was not for that, I think we would have an awful lot of trouble from that.

Just these few little things to show how we stand up there; the sense of injustice we have,--- that just because we are Indians we cannot get licenses for sealing.

MR. KELLY: I think it is time to adjourn, but I would like to have this taken notice of; I do not wish to close this fisheries question up without arriving at something very definite. I would like tomorrow morning to have some very definite proposals in connection with the fisheries question recorded. We have been proceeding in a general way, and we could go on endlessly, because all the Indians feel the same way. Take the West Coast Indians, and the Cowichan Indians, and the Saanich Indians, and the Alert Bay Indians, and the Indians up the Northern Coast,---and it is true of all the Indian Tribes of this Province. So it is not necessary to dwell on that any longer; but I think it would be more profitable for us to bring forward certain proposals which we think would be beneficial to the Indians. And that we will do tomorrow morning.

But we would like to know, if possible, if any knowledge has come to the notice of you, gentlemen, both Dr. Scott and Mr. Ditchburn, of what the Duff Commission has recommended in this regard. Have they recommended anything at all?

MR. DITCHBURN: I am not aware of it.

MR. KELLY: We understood that Maj. Mutterwell, the Chief Inspector of Fisheries for this Province, had been told to give every assistance to Dr.

Scott. I was just wondering if any new matter had come to light, or any recommendation has been made, and Dr. Scott has been made aware of that ?

DR. SCOTT: I do not think there is anything very new in these matters; but we will give that matter attention; and we ~~it~~ may be able to say something about it tomorrow.

MR. KELLY: Quite all right.

The Conference here adjourned until tomorrow.

Thursday, August 8th, 1923; at 2 P.M.

DR. SCOTT: Gentlemen, do you want to make any further remarks on the fishing question ?

MR. KELLY: We I think gave you assurance last night that we would bring forth certain definite proposals in connection with the fishing question. These proposals are general; we do not pretend to work out the details of the matter; they are general, and very roughly drawn up. The phraseology will not be as finished as it ought to be. But so long as they convey to you the sense of what we would like to bring before you, that is all that is necessary.

We have put the fishing question under two heads.

Domestic purposes. The Indians claim the right to catch salmon and fish in all the streams, rivers, lakes and tidal waters of the Province, any time, any time the salmon or other fish are in these streams, rivers, lakes or tidal waters;

without permit, and without any limit being placed to the number of salmon or fish caught; with the explicit understanding, however, that the salmon or fish will be used by the Indians for food only.

Now the reason that we arrived at that conclusion was this: Sometimes Indians, as is usual, by force of circumstances, go away from their homes; they may go to the hop-picking; or other places where they earn money; and while they are away, some of the older Indians stay home and dry fish. And the ones that are drying the fish, sometimes put up more fish than their own need, with the understanding that the Indians who are away would come back and take dried salmon from them. It is not for outside trade, but it is for the use of the Indians themselves, and in circumstances of that kind. We do not think it is right for the fisheries officers to put any limit on how many salmon they should be privileged to put up. That is the reason we put that that way. That is all we have to say on that particular section of it.

We come to the second part, commercial fishing. Yesterday I think I outlined in a general way what we are bringing before you in a particular way this afternoon. This is what we are saying, that the Indians be allowed to fish or troll for salmon without license in all the tidal waters of the Province.

Second, under that head, that the Indians be allowed to get seining license, which is now denied, at half the prevailing price for the license.

When we say seining, we mean both with drag-seine and the purse seine. And the price for the license for this kind of fishing is \$300; we think the Indians should pay half of that for the privilege.

Now this applies to all the tidal waters of British Columbia, to all the fishing districts, I think they call them, of British Columbia. We claim the Indians should have the right to go to any fishing district and fish, on equal footing with all the other citizens of the country. We recognize the fact that the Indian is not looked upon as a citizen, but when it comes to fishing he is as good as any other citizen of the land, and should be treated as such.

Number 3 under that head,---That at the mouth of the streams or the rivers which flow through Indian reserves, and at the foreshores of these reserves, only Indians be granted seining license to catch fish in these areas. I don't know if that is quite clear what I wish to convey. There are certain fishing areas at the mouth of streams which flow through Indian Reserves. At the present time a great many of these streams, at least these seines are operated by Indian crews, but of course the license is not given to them, the license is usually held by the cannery owners. But in a great many instances it is also true that this does not obtain; that other crews are used. And in every case there are sufficient Indians to man the seines and operate them. It

is in cases of that kind that we claim the right to have the license and operate the seines at these places.

And No. 4 of the commercial fishing—That in all the fishing districts, certain areas be reserved for the exclusive use of the Indian bands or Tribes in those localities, such as obtains around Annette Island, Southern Alaska, U.S.A.; and in these areas no license shall be necessary. We might add just a word there, by saying this, if these areas are reserved for exclusive Indian fishing, we do not mean that all barriers are to be thrown down, that no fishing regulations would be observed. We have it in mind that fishing regulations must be observed in these areas, just as they obtain elsewhere; but the Indian does not think he should be entitled to come closer to the mouth of the stream than is permitted elsewhere. All regulations obtain there, but with these privileges.

Now we have been talking a great deal about the need of grazing lands for the Interior Indians. Once again, I would like to say, what the grazing land is to the Interior Indian these fishing areas would be to the Coast Indian. So it is an absolute necessity.

Now these are the definite conclusions that we arrived at in connection with the fishing question.

We have one other matter to connect with that—although we are not absolutely certain—we have received certain information that we do not know just how far to credit; but to have the

situation,—that the Indians be given the same right to get an independent gill-net fishing license as the other fishermen have. One of our friends who are here, said that recently, in fact within the last month, the recommendations of the Duff Fishing Commission have come into force, and one result is that where the fishermen used to pay \$10 for a license he is now called upon to pay only \$1.00. Now this comes from the practical experience of one of our brothers who have been fishing this year; And he also says that the Indian has the same right as any other body, to get independent fishing license for gill-net—these things that did not obtain before.

Now it may be that that <sup>same</sup> Commission has recommended certain changes in the same fishing regulations; but we are not aware of that now. But what we have put forward are the things that we claim that we have a right to get. And we want the Government to give these matters their fullest and most serious consideration.

MR. MITCHELL: I think the Indians could always get an independent gill-net license, but they could not get a salting license. Maj. Mutterwell informed us to that effect the other day; he pointed out that out of 1021 gill-net licenses issued in the Province of British Columbia, there were so many held by the canneries, and the Indians had their own licenses. Of course I may be wrong, but that was the understanding, that the Indian could always get a gill-net license, but

not a seining license.

MR. KELLY: What we mean by independent license of course is this—

MR. DITCHBURN: That they could sell their fish to anybody?

MR. KELLY: That they could sell their fish to anybody.

MR. DITCHBURN: However, it will be all right, in the notes.

MR. KELLY: As far as we understand they have not been able to do that before.

MR. DITCHBURN: I would like to explain to you—before we entered this meeting you spoke about permits being issued to Indians for taking fish for food purposes, that they did not want it—you intimated that these permits only covered a given period of time?

MR. KELLY: Yes.

MR. DITCHBURN: Well, I have a sample of the permit for 1923, and I see that it covers from the 1st of January to the 31st of December; and the only restrictions so far as time is concerned, in this permit, is the days of the week they are to fish.

MR. KELLY: That is something new.

MR. DITCHBURN: It may be.

MR. KELLY: Yes, that is absolutely new. I am speaking of what I know, what I have seen in Nanaimo, for instance. They were given, for instance, from the 15th of September, perhaps, until the 7th of October—just a specified time—absolutely specifying.

DR. SCOTT: That closes the question of fisheries?



MR. KELLY: Yes.

DR. SCOTT: And I understand that you consider~~ed~~ these provisions to be essential to any surrender of the Indian title?

MR. KELLY: Yes, we do.

DR. SCOTT: I want to get that clear.

MR. KELLY: Yes, we consider these different points brought out, absolutely essential to the surrender of the Indian title.

DR. SCOTT: Now could we go on to the hunting rights?

MR. KELLY: We have on our agenda for the next point of discussion, hunting.

DR. SCOTT: Yes.

MR. KELLY: Hunting includes trapping, of course; and for the West Coast people, sealing.---it is essential to them. After this, the next matter we would like to speak about is timber; then foreshores. We think that these different matters will occupy our afternoon pretty well.

DR. SCOTT: You are the spokesman for the hunting question?

MR. REID: Yes.

MR. KELLY: May I say this; that we did not come down to definite conclusions, as we did on the fishing question, on the matter of hunting. But we do not think it is quite as necessary in the matter of hunting rights, as it is in fishing rights; so we can make a general statement which would be sufficient for the purpose in view.

MR. REID: Gentlemen, on the hunting question, which is <sup>of</sup> ~~is~~ just as much importance to the Northern Interior

Indian as the grazing lands to the Interior people, and the fishing for the Coast people. Some of the Indians in the Northern part of British Columbia do nothing else but hunt for an existence. They may possibly come to the Coast a few months in the year, and do a little fishing, in the fishing season, for the canneries; but they go right back; and the only thing that they have is their hunting and their trapping, for their main existence.

Now I wish to cite in my remarks, one particular case. There are various other cases that I could remark on; but this one question, I am absolutely sure that it is the truth, therefore I take it up. A man by the name of James Wesley, who lives in Port Simpson, his forefathers and his father handed down to him, from time to time, as it was going along, certain area of the trapping line. This man Wesley had gone to this place in the fall (I think of 1919—I may be mistaken in the year, but it is somewhere around there. And when he arrived there he had found a white man in that locality, who had set up his traps; and this Indian James Wesley had landed there to camp and start and put his traps out. And he was told to get out, by the white man. So they came into a conversation and they started talking. And the Indian said, This belonged to my fathers and my grandfathers, and I am entitled to come here. The white man in turn says, No, you have no right here, he says, here is my license; and he produces a license. Well, Mr. Wesley would not go away; he says, No, I am entitled

to stay here and trap here. The result was that the white man says, You will get off of here and grabbed his gun and drove him off.

Now there are other instances that happen like that in other parts of the Northern British Columbia. I just wish to pick this one instance out to show you as a matter of record. Now, gentlemen, you know as well as I do, that at least some of these people in the Northern part of British Columbia depend wholly upon what they can get in furs for an existence. It is something they had in this country before the white man came here. They did not hunt at that time for to export the furs to foreigners. They hunted and they traded these furs, amongst themselves. A man would be a hunter, he would go and get a lot of skins, and he would trade it to the man that dries fish, or trade it for some other food. When the white man came here, and had changed the wearing apparel of the Indian, the Indian still kept on his hunting and sold his furs to the white man for clothes such as we wear now. He was never deprived from going to any place to hunt, when and wherever he wished to. But we find today that there are certain provincial laws that restrict Indians from following something that has been handed down to them from generation to generation. It is not anything new that they ask ~~for~~ for. They have had this at all times, and as I said before, we find that there are certain laws that say you shall not hunt here, or you shall not hunt there, or you shall not trap this kind of an animal.

The Indian thinks that he should go along the same as he did in the olden days.

Hunting in the various different parts of British Columbia is not all the same. But we make this statement, in a general way, covering the whole of British Columbia. It is not in a detailed way. We hope within the future that something will be brought on where this hunting will be looked into, and the details of the matter gone into.

There is one other item. The Indians do not object to the white man going into the country and trapping or hunting. He do not object to it. But they do object to the white man saying that the Indian has to go some other place. Now that is so much for hunting for commercial purposes.

Now, hunting for food stuffs is another item. An Indian in this country could go and kill any animal that he wishes to kill for food stuff at any time. Now there are restrictions. Some Indians who are a little bit old, and not able to go and do the hard work that the younger Indians do, depend a whole lot upon living on what they can get from the land, that is hunting and fishing. The Indians think that if at any time they wish to go out and kill an animal for food purposes, that they should be allowed that privilege, without any restrictions put on them. That is for food stuff only—not for commercial purposes. There is quite a lot to be said on this hunting; but as we are all anxious to get through, we think that we will just cover the thing in a general way

at this time, and at some future date the whole matter be gone into. We think it is quite enough at this time to go that far.

MR. DITCHBURN: Mr. Reid, do you know what privileges the Indians have under the Game Act, so far as hunting and trapping?

MR. REID: I have not gone wholly into the matter, but I believe that the law applies to them—for commercial purposes applies to the Indian as well as it does to the white man; but I believe there is something in the hunting for food stuff that is a little bit different; I don't think they are wholly stopped from getting anything that they want to for their food for their own use.

MR. DITCHBURN: Do you know that an Indian does not have to take out a trapping license?

MR. REID: He does not have to take out a trapping license; I know that. But a white man comes along and he has a trapping license, and the Indian has none, and the white man says, you get off of here, I have got a license.

MR. DITCHBURN: The Indian is protected under the Game Act just as well as the white man, only he does not have to have a trapping license.

MR. REID: But when the Indian is out in a lonely spot some place where there is no protection, no authority to protect him, this white man uses force to drive him off. There is no section of country reserved for them to hunt in. We believe that if certain areas would be struck off, the same as for fishing, and say, this is exclusively for In-

dian hunting, no white man to be allowed on this,— we believe that if something like that should be done, the same as there is in the fishing, for instance,

MR. KELLY: May I supplement that by saying, I think Mr. Reid means—I don't know whether Mr. Reid made it plain, but I take it he refers particularly to commercial hunting,—when you say a certain area to be reserved, you are thinking of commercial hunting, trapping for commercial purposes?

MR. REID: Yes; trapping for commercial purposes.

MR. KELLY: I will refer now to the sealing question. Frankly speaking, I myself do not know anything about the sealing question, but our friend Mr. Paull is out on the West Coast, and I think the Indians out there have acquainted him with their needs. He is in position to bring forward in a brief way just what they have brought before him.

MR. PAULL: This is a sort of an international matter, this pelagic sealing, I think it is called. Now looking through the report of the Commission I see <sup>where</sup> it is reported ~~where~~ that although their principal source of revenue ceased with the prohibition of pelagic sealing. Now it was repeatedly stated to me last year by the Indians, and again this year, that in the wintertime the Indians on the West Coast have no source of revenue, hardly, to speak of; by virtue of the fact that that part of Vancouver Island is not as well populated by the white people as it is in other parts of British Columbia.

Now the Commission sat formally—an international Commission sat formally. I presume to decide what the former sealers would receive on account of the prohibition of this sealing. One request by the Indians of the West Coast is that they be given information as to the decision of that Commission. It is alleged by the Indians that they went to a great expense in order that their views would be represented before this Commission, and up to this day they have not received a thorough information of the decision of the Commission. This is one of the requests they make.

Now the sealing laws prohibit the use of gas or motor launches to go out to the sealing grounds. The Indians, as a result of these ~~new~~ restrictions, have to go out thirty or forty miles, out into the Pacific in their primitive canoes. Now it is desired by the Indians that they be allowed to go out to the sealing grounds with their modern motor launches. I do not think it is necessary to dwell very much on that, it is one of the main points that they want. I think that covers it.

MR. DETONBURN: Do you want some information on that, Mr. Paull?

MR. PAULL: Please.

MR. DETONBURN: With regard to the sealing on the West Coast, of course that comes under the treaty made between Great Britain and the United States in 1911, when all pelagic sealing was stopped for the period of fifteen years. That treaty will be concluded in

1926,---three years hence. However, under that treaty the Indians and Aleuts were allowed to take seal in their old methods of sealing, that was by the use of the spear, and they must be taken from boats not propelled by steam or gasoline---must be taken from canoes. The Indians of the West Coast of Vancouver Island I know, some of them at least have made a very large amount of money during the past few years, in view of the fact that the seal herds have been much more populous than they were before.

Now with regard to the statement of Mr. Paull that the Indians had not been informed as to the result of the Commission that investigated this matter a few years ago as to the matter of compensation I may say, they were informed, as fully as it was possible to inform them. Mr. Justice Audette, of the <sup>Exchequer</sup> Circuit Court, came to Victoria and held sessions during three years, and he went into the matter of compensation very fully; and his decision was to the effect that the only people entitled to compensation were those who were estopped from sealing owing to the treaty of 1911,---that is those <sup>vessels and those</sup> hunters who were employed in the industry in 1910, or during 1911, at the time the treaty came into effect,---these were the only people who were entitled to compensation. There were a great many other claims put in, but they were not listened to, as they were people who had stopped sealing years before that treaty was passed between the



Government of Great Britain and the Government of the United States; and they did not get anything. There were five vessels, and the crews of those five vessels received compensation. The Indians on the West Coast, if I remember correctly, got about \$15,000. I went up and made the payments myself. But it was only to those Indians who had remained in the sealing industry up to the time that that new treaty was put into effect. I think that is plain, and all that needs to be said on the subject. They did receive their money.

MR. KELLY: When was that paid?

MR. DITCHBURN: Paid some five or six years ago.

MR. KELLY: It must be clear to their minds; that settles that matter, then.

MR. PAULL: \$15,000?

MR. DITCHBURN: Yes.

MR. PAULL: May I ask this question, Chief Inspector,—of course I have no thorough knowledge of this sealing treaty between Great Britain and the United States,—with your knowledge of that treaty, do you suppose it would be possible for the Indians to go out thirty or forty miles into the Pacific and leave their motor propelled boats there and jump into their canoes and fish from their canoes, and seal from their canoes; would that be within keeping of the treaty?

MR. DITCHBURN: I can give you that information tomorrow. I will look at the treaty.

DR. SCOTT: That finishes the sealing question?

MR. KELLY: Yes.

DR. SCOTT: What is the next item?

MR. KELLY: Hunting for food.

MR. PAULL: In addition to what has been said as to hunting, I would like to say a word or two about hunting for ducks for food. According to the present regulations made by the Dominion, the Indians are permitted to kill ducks of a certain kind for their food, but they are prohibited from shooting or killing for their food a certain kind of duck. Now on account of that regulation, some Indians have been brought to the Court and fined for killing the ducks that they were not supposed to kill under the regulations. Now that has rendered a hardship for the Indians, because it is not very easy to distinguish between the two different kinds of ducks sometimes. And they would like to make a request that they be permitted to kill ducks of all kinds, for food only. That is outside of the organized districts—they don't want to shoot here in front of the bay in Victoria, you know.

As regards hunting in the neighborhood where we live, there is very little game now left. Hunting does not satisfy us very much, but still, at the same time, we have young children that go out shooting pheasants, and sometimes go out and shoot a deer, occasionally. And there are certain restrictions that prohibit us to shoot on the C.P.R. lands, we are not allowed to hunt in. And another thing, our hunting ground, the main hunting ground is towards the north end of the Cowichan Lake where the Elk is. that is prohibited by the Government.

And we have no part in making the laws; and we don't think it is just to stop us from shooting on those. I don't think that we should be wholly stopped from killing one or two elk, occasionally. We didn't have any say in the law prohibiting people from going there hunting. And our people think it is their property, they think it belongs to them.

MR. KELLY: I would like to say a word about that; that is about hunting for food. I am thinking now of deer hunting in particular. That may apply to elk, although as far as this coast is concerned, we are not bothered with that so much. But in other parts of the Province, no doubt, where they can hunt elk or moose, or either big game, I suppose conditions would be the same there as they are here. Some Indians have been prosecuted for killing deer for food purposes in this Province out in the Coast here. We have been given to understand, always, that an Indian could always kill deer for food purposes; it was made very clear that he could not sell them. But there were no restrictions at all as to killing deer for food, or any game for food. But game wardens have prosecuted Indians for doing this very thing. And, once again, we claim the right to hunt game for food any time that we need them. <sup>When</sup> Now ~~the~~ I say any time, I mean any time in season. There are certain times of the year when deer are not fit to eat, and the Indians do not want them; that goes without saying.

Of course we want to go on record in saying that we do not approve of any Indian, or bands of

Indian hunters slaughtering deer at any time just for the sport they may get out of it. But we do say that wherever they take deer, or any other animals for food purposes they would not be prosecuted for doing that. We would like that to be strictly understood; and we press for that as one of the conditions necessary to extinguish our aboriginal title.

Now that closes the hunting question/<sup>part</sup> of it. I am not altogether satisfied that we have given it a comprehensive review; although my friend Mr. Reid has covered the question generally. But I am thinking of those people who are far in the Northern Interior of this Province, who depend on hunting entirely for their livelihood. If that is taken away from them I would think that they would be pressing for compensation; they would claim the right to be compensated for that; which means food for them, and living for them.

MR. MITCHEBURN: Mr. Kelly, you remember a year ago I supplied you at the request of Dr. Scott, with copies of all the treaties made with other Tribes of Indians in Canada?

MR. KELLY: Yes, I have them.

MR. MITCHEBURN: Did you find anything in those treaties which permitted Indians to hunt without any ~~any~~ restrictions?

MR. KELLY: I am not just prepared to say that.

MR. MITCHEBURN: I think you will find in every one of those treaties that the Indians were given hunting privileges under regulations. That is a condition of every one of those treaties.

MR. KELLY: Just what do you mean?

DR. SCOTT: I think the provisions of the treaties were that the Indians were to be allowed to hunt over the unoccupied territories, as they have been in the past.

MR. MITCHELL: Subject to regulations.

MR. KELLY: Over the unoccupied territories, yes.

DR. SCOTT: But there is another clause in the treaty which makes them subject to the laws which are passed for that, or any other purpose. In other words, while they have hunting privileges over unoccupied lands, they must obey the laws of the country; and those laws and regulations deal with the question of hunting. And of course you will all understand that reasonable hunting regulations are as much in the interest of the Indian as they are in the interest of the white man, as they are designed to preserve the wild life of the country. If that becomes depleted, owing to careless hunting, the wild life will disappear, and the maintenance of the Indian will disappear.

MR. KELLY: We quite realize that, Dr. Scott.

MR. MITCHELL: Reverting to that question of sealing; I have before me the treaty of the 7th of July 1911; and, giving you a full explanation of that question; Mr. Paul, I may say now that I do not consider that the Indians can have their canoes transported by any other vessels. For I will read you this Section 4 of the Treaty:

"It is further agreed that the provisions of this Convention shall not apply to Indians, Ainos,

Aleuts, or other aborigines dwelling on the coast of the waters mentioned in Article 1, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practised and without the use of firearms; provided that such aborigines are not in the employment of other persons, or under contract to deliver the skins to any person."

It must be spears, and go out in their own canoes.

MR. PAUL: Who has charge of the carry out of that Treaty?

MR. DITCHBURN: The Department of Marine.

DR. SCOTT: I think we have covered the question of hunting pretty fairly.

MR. KELLY: Yes; but I would like this to be understood; I think this pelagic hunting should not be passed over so lightly. These West Coast Indians; as you know, Mr. Ditchburn, yourself, are dependant upon this to a great extent. They have been; that has been the source of their revenue for many years. And to take that away from them, although they were compensated to the extent of \$15,000 that does not amount to a great deal.

The Commissioners themselves say that; that is to say; the Commission on Indian affairs reported, here, that the annual income from furs amounted to a thousand dollars for an individual—for a man.

MR. DITCHBURN: Until the supply was depleted, Mr. Kelly, There used to be thirty-five or forty vessels go out of Victoria. In 1910 there were five went out.

MR. KELLY: Of course, when that many vessels go out, with perhaps thirty or forty hunters aboard of them, and they go out and hunt right there, it can easily be seen how the fur seals will be depleted. But the Indians, I don't think, would make enough impression upon them to make such a serious difficulty.

MR. DITCHBURN: There is only three years more for the Treaty to run.

DR. SCOTT: Well, it was held in the interests of all concerned, that the industry should be protected, in order that the seals might have an opportunity of reaching the breeding grounds. And what the result will be after the fifteen years has elapsed, we none of us can say. But it is clear that the Indians, under the Act, have not the right to transport their canoes. We are not passing over that question lightly at all; but I think we are fully seized with the full importance of it to the Indians of the West Coast.

MR. KELLY: They cannot transport their canoes with vessels propelled by steam or gasoline.

MR. DITCHBURN: The canoes must not be used in connection with any other vessels; must not be transported, or used in connection with any other vessels.

MR. KELLY: They cannot take even a sailing vessel, that is to say, in a large sailing vessel, or a small

schooner, say about fifteen or twenty tons ?

MR. DETMERS: Apparently not.

MR. KELLY: That makes it almost impossible.

MR. DETMERS: They are getting lots of seals now, and have been for a great many years.

MR. KELLY: They may be breaking the laws;—he is compelled to break the law in doing it.

DR. SCOTT: Yes; he could not take the canoes out forty miles from shore.

MR. KELLY: They cannot do it.

DR. SCOTT: Well, could we pass on now to the next subject ?

MR. KELLY: The next matter we would like to deal with is timber.

Now ~~this~~ this is a little involved, I know; but we have been forced to give this matter a very serious consideration; for this reason, that during the past decade, perhaps longer than that, during the past fifteen years, nearly all the timbered country has been staked for commercial purposes. I will venture to say that there are very few vacant spots, especially along the waterfront, where timber can be cut without trespassing upon some timber limit, or somebody's property. In other words, the freedom that the Indians enjoy in getting timber from the Crown lands is just about ended. I can speak of what I know in my own locality, I mean Nanaimo, where I live now. It is not such an easy question for the Indian to get cedar, for instance, to make canoes out of. He has to go to the companies that own



their land, and must get permission from those companies before he can touch a stick. Now, some people think that the era of canoe making is <sup>perhaps</sup> about at an end; but the fact remains that the Indians are still making canoes, and will be making canoes I believe for a good many years to come. In that way he finds it difficult to get the proper kind of cedar without trespassing upon somebody's property. And not only in the way of getting cedar for canoes, but this also applies to getting timber for fuel purposes—cutting trees down for fuel, and also—I don't know if I can state a case, but I have heard of cases where they have been prosecuted for taking bark off trees for making baskets. That is of commercial value to them. They must get the bark from the cedar tree, or else they cannot make the particular kind of baskets. It is eminently fitting for that art. We venture to say, and to claim, that the Indians have a right to take timber, whether it be cedar or fir or spruce, or whatever it may be for his own use at any time from any place. Now I think I am safe in saying that that was guaranteed him under the Proclamation of 1763, and also under the British North America Act. That is his aboriginal right. And we claim that he should be privileged to have an access to timber at all times. I do not know if I should use the word "privilege", it is not just a privilege, it is a right that he is entitled to.

When I say that, I have in mind the many

difficulties that are connected with the question. I do not say that he has any right to log off somebody's property, or somebody's lands. Some concerns I know are paying for timber licenses, and they have in view the purpose of making money out of that. Now I am not so unreasonable as to think that the Indians should go and log off those claims. But when it comes to the point of getting wood for himself, and getting cedar for canoes, or getting bark for making baskets, I maintain that he has the right to go to those places and get them. Now his aim is not to <sup>destroy</sup> ~~destroy~~ them, his aim is not to simply make himself a nuisance, but it is of necessity that he goes to those places. And we would appreciate very much if the Province—here the Province comes into it—would amend the laws that govern these matters, so that the Indian would always have the right to get timber for his own use. Now we consider this one of the very important matters. And I think you will agree with me that as the years go by this subject becomes more difficult to deal with. Timber is being well used up, large timber areas have been almost, I was going to say almost cleaned out. Although it is not exactly hard for the Indian now to get timber, but there have been instances where he was driven off places, where he had been accustomed, was in the habit of getting it in the early days. Now for that reason I do not think it is unreasonable that he claims the right to have that perpetual privi-

age, of getting the timber for his own use. We point that out as one of the necessary conditions of a treaty that we hope will be brought into effect.

MR. PAULL: I would like to say a word or two in connection with the cutting of timber on reserves.

This is not merely my own observations. But I see even in accordance with the report of the Commission that it was a demand—in several Agencies that demand was for relaxation of the timber regulations. I don't know whether this is the time to ask the Department for that. This matter is within the bounds of the Department. Now, what I mean by that is this, according to the Act an Indian desiring to cut some timber has to go through the formalities stipulated in the Act. But especially on the West Coast, where work is not so plentiful as at other places, it is desired by the Indian that they should be free to cut from their reserves trees for sale, cordwood, or shingle belts, so that they could get some money with which to buy necessities. Now they have been threatened with prosecution if they do so. And that is a demand by nearly all the Indians I visited on the West Coast. And I respectfully ask of the Doctor to take that into consideration.

MR. ALDO. LEONARD: Just a few words I would like to say in regard to the timber. Even for domestic purposes I have known of certain cases where Indians are not even allowed to take dead timber for their own fire use, unless they are made to

make certain arrangements with owners, with people who own these lands, or timber reserves., This applies especially to Shuswap and Chase Reserves, which I am quite certain of, they are not even allowed to take the dead timber off outside of their reserves. And this we do not like to have practised on us, that we should not even take dead timber. We don't take green timber outside of our reserves, but dead timber that we usually wish for firewood. That is what I wish to say on that matter.

MR. PAULL: I would like to ask the Chief Inspector for a point of information. Does the Provincial Government control all trees that are drifting in the rivers or in log jams, etc., in streams, beach or rivers?

MR. MITCHEBURN: I believe they do, yes. If it can be proved that those came off certain properties, I suppose the original owner of the property can claim them. But if they form log jams in the channels of rivers over which the Provincial Government have control, of course they would have the matter in hand.

MR. PAULL: We have been asked, because some of the Indians have been affected this way, that they have lost some valuable trees that have been washed away from the banks of their reserves, and some into the possession of the Provincial authorities. Now the Indians would like to have some control over those trees, if possible.

MR. MITCHEBURN: If they form a log jam in rivers,

I don't think that the Provincial Government would raise any objections to the Indians removing those log jams, no matter who they belonged to.

MR. KELLY: It is a matter of who gets there first, isn't it?

MR. DITCHBURN: Practically that, yes.

DR. SCOTT: Are you ready to go on with the next item?

MR. KELLY: We have a paragraph 12, on p. 13, dealing with this timber matter, but it is a little different, and I was just debating in my own mind whether we should bring that matter in here. It is under the subject of timber, but I am wondering whether this is the proper time to bring that in?

DR. SCOTT: That is all <sup>ready</sup> on record. Do you want to discuss it further?

MR. KELLY: I am not insistent upon it, you know.

DR. SCOTT: If so, now I think is the time, if you want to say anything in amplification of that twelfth clause. The Chief Inspector has noted in our copy of your pamphlet that your request is provided by Section <sup>49</sup> ~~44~~ of the Indian Act. I don't know what variation there is that is required; because under that clause of the Act, no timber can be disposed of without the consent of the Indians and the Government, and then it is always sold by public competition.

W.E.D.

MR. PAULL: Doctor, what the Indians have in mind is this, the way the Act reads I think is that 50% of the proceeds is given to the Indians in cash, the other 50 %, according to the Act, remains in trust for them. That is the way the

Act reads, you see. But the demand of the Indians in general is that that should not prevail, that whatever agreement is entered into by the Indians should prevail, as to the disposition of the proceeds.

W.E.D. DR. SCOTT: Then <sup>if</sup> they were to ask for the whole amount in cash?

MR. PAULL: Well, I don't think they would make that demand—although some might. But it has been a general cry of the Indians about that 50% that is in Ottawa. They want to see some of that money aside from the interest that they realize.

DR. SCOTT: Well, of course that amount is held for expenditure on purposes that represent capital. And the Indians could receive the benefit of that at any time if they wished to erect buildings, or anything in the general interests of the band.

MR. PAULL: Well, that alone, itself, does not satisfy the Indians.

DR. SCOTT: I understand the point; and we can take that into consideration. I will draw the Minister's attention to that.

MR. PAULL: That is a very paramount question, I think; that will be dealt with later on in considering questions of the Indian Act, that is mentioned in our pamphlet as well.

MR. KELLY: The trouble is this, they are not, as you are aware of, asking for public buildings, and are not spending their tribal funds on any public improvements, to any great extent. And this has been brought ~~down~~ up to me again and again.

should the Tribe become extinct, what is going to become of that 50% that is in Ottawa? They look that far ahead, and they think they should have a little more coming to them than just go keep it in trust there. Now that has been seriously raised. This is not just a light matter, but it has been spoken of in a serious way. It does not just apply to the proceeds of the sale of timber lands or any other land, but it applies to everything, lands, or mineral claims, or any other matter that may come up in connection with the sale of Indian lands.

DR. SCOTT: If the Government were to allow the expenditure of the whole amount of capital, then they would take on the obligation of maintaining roads, and bridges, and ditches, and general public works on reserves through the whole of the country; and it would be of course a very heavy tax. The capital that we hold is held in the interests of the Indians, as I have stated, for public works of that character.

MR. PAULL: Doctor, the Indians present this argument: Now we will take any reserve now, take for instance one of the Squash reserves; suppose we were to spend all the money that was credited to that reserve in public buildings and ditches, etc., it would not require all that money to erect public buildings, ditches, roads, and so forth; there would still remain a very large sum of money, and the Indians are not satisfied with that clause of the Act. There is more money—

that 50% retained in trust for them is more than is necessary to build buildings and ditches and other things, unless you---I don't know what material would be used in some cases, I admit, though, that there are some that have just a small amount; but taking the matter as a whole, there is too much money there for the purpose for which it is kept there; and the Indians would like to realize some money now, before they go out of existence entirely. Now we do not anticipate dying off tomorrow, or I hope we do not die within the next two or three weeks, but there may be a time coming when the Indians will be <sup>absorbed</sup> absorbed into the general citizens. Now when they do that, what is going to become of all this accumulated 50% of the proceeds?

W.E.D.

MR. MITCHEBURN: Then you will get your money.

DR. SCOTT: Distributed amongst you per capita--- on the per capita basis.

MR. PAULL: Well then, you cannot distribute it if we go out of existence by natural death.

MR. MITCHEBURN: You cannot take it with you, no.

MR. PAULL: I am trying to be frank with you in presenting the feeling of the people, that is all.

DR. SCOTT: Could we pass on to the next subject? Or is there any further discussion?

MR. KELLY: This is a matter which was not on our agenda, this matter of funds, but we have become involved in that.

DR. SCOTT: I will bring that to the attention of the Minister.

MR. KELLY: But it is just as well that it is brought



here; it is seriously contended all along.

Now the matter of foreshores. Although we have spoken on the matter of foreshores, we somehow feel a little hesitancy in plunging into it. We realize it is rather a debatable question---it is not debatable from our viewpoint, but we could not help but look at it from the Provincial side---from the Dominion side, and we are brought up against very serious contentions. But, nevertheless, we feel strongly on the matter of foreshores, because the value of the different foreshores are tremendous; they are great; and taking away the foreshore rights from Indians ~~it~~ seems to me is depriving them of a great deal...Now, the Executive did not prepare any statement on that. I am speaking now along general lines.

Now before we proceed very far we would like to get this information; I think the Chief Inspector would be prepared to give us, perhaps, or perhaps you yourself, Dr. Scott. What is the ruling on foreshores on Indian Reserves? both titled and untitled? we would like to have a perfect understanding about that before we take a definite stand on it.

MR. DITCHEBURN: I understand the ruling is, that they fall to the Crown in right of the Province, or of the Dominion, as the case may be. But the Indians have riparian rights; that is, right of access and egress from the reserves by water; and the reserves only go to high water mark. The Indians interested in these reserves, are, however, considered by the

Government of British Columbia whenever there is a lease---they never give a lease of foreshore fronting an Indian reservation without the consent of the Department of Indian affairs.

MR. KELLY: That would be just a matter of regulation.

MR. DITCHBURN: The Department has, on the other hand, granted a number of leases for foreshores fronting Indian reserves, for which the Indians receive a regular rental. And we have a number of leases in the <sup>Province</sup> ~~Provincial Government~~ covering foreshore as well as part of the reserve.

MR. KELLY: The fact remains, though, that the Indians do not own the foreshores. That is the crucial point. According to the contention of the Province, and of the Dominion. Has this ever been decided in one of the higher courts, the Supreme Court of Canada?

DR. SCOTT: No, there has never been any test case of the Indian title to the foreshore, that I am aware of. The ownership of the foreshores has been decided on by other cases, in which the Indians were not especially represented.

MR. KELLY: I do not think there is any difference of opinion in this matter, so I might as well state in a brief way what I have been trying to get out in a <sup>rather far</sup> round about way. We claim the foreshores in connection with our lands, to the low water mark. That is our claim; we claim we have them.

DR. SCOTT: To the low water mark?

MR. KELLY: Yes.

DR. SCOTT: You do not claim what we call the water

WED laws? <sup>del</sup> del

WED MR. DITCHBURN: A Water <sup>del</sup> law is past foreshore. Fore shore is from high water to low water; and then out in the deeper water is what is known as water laws. <sup>del</sup> WED

MR. KELLY: Oh no, we don't claim it in the deep sea; we say down to the low water mark, you see. That is what we claim. When I say that, I speak of the Indian reserves, now, we claim that our title to those have never been extinguished. However, to be understood, we make that a general statement. But as we are now in the process of considering our extinguishment of title to all the lands of the Province, of course the foreshore, we maintain, is included in that.

But as far as the foreshores in connection with the reserves that now exist are concerned, we claim that we have a perfect right there, and we say, down to the low water mark. And we have the right to do exactly what we see fit to do on those foreshores, excepting, of course, the approval of the Indian Department, as matters stand now. But we do say that we own the foreshores, and we want now, and we want most strongly to press that. We don't want the Minister to look over that particular section and say, well, this is one of the old contentions brought up, but we want to press this. And if necessary, we would have this matter tested; if there cannot be any other decision given except through the courts, why we are quite prepared to see this decided in that way. But we do maintain that we

have the right of the foreshores in front of all the reserves.

I do not think it is necessary for me to bring forth any argument, any legal support of this position, other than this; we at the very outset of this conference took a stand based on our aboriginal rights; and as far as the foreshores in connection with the reserves, those parcels of land that are now left to the Indians to be their absolute property; we think that we are within our rights in saying that these foreshores have never been given up; have never been surrendered, have not been taken away from the Indians. If it is going to be done, then it is something in the future rather than in the past.

MR. PAULL: I am in accord with what our Chairman has said. There may be a lot of suggestions that may be made to substantiate our argument. But it is not necessary today; we simply place before you what we consider are our just demands, such as stated by the Chairman; and we consider, and we claim, and always will claim, regardless of what the Province or the Dominion decide between themselves as to their foreshores, we will always maintain that the foreshores of our reserves are part and parcel of our reserves. And if there is a test case between the Dominion and the Province as to who has jurisdiction over the foreshores in tidal waters of the Province; let them exclude the foreshores of the reserves; let it be established that the foreshores of these re-

severes belong to the Indians, and do not drag our foreshores into Court in controversy between the Dominion and the Province; leave us alone. If they have a debate on it, themselves, let them go to it, and leave our foreshores for ourselves.

DR. SCOTT: Mr. O'Meara might make a statement of the legal position; but it might take up too much time---if he would prepare a statement---

MR. O'MEARA: I would prefer to prepare a statement.

DR. SCOTT: A statement that you could present and attach it to the record. It might be valuable---and would give Mr. O'Meara time for preparation.

MR. O'MEARA: Yes, thank you for the suggestion; I will be pleased to do that.

MR. KELLY: Then that is understood; it will be a part of the record.

DR. SCOTT: Yes, it will be part of the record.

MR. KELLY: That will be quite satisfactory.

(NOTE. Mr. O'Meara's statement appears as an Appendix to this transcript.)

MR. KELLY: There is one other matter under the heading of general matters, that might be brought in. Now I am not qualified to speak on this particular matter; but as the Indian Department is well aware, there have been treaties made in certain sections of this Province, for instance, the treaties that were made right in this particular spot, which affects the site on which the City of Victoria stands. The same treaty, or similar treaties, affect the Saanich Peninsula, and areas in the Cowichan Agency, or around that particular vicinity of Cowichan, also on the northern part of Vancouver Island. Treaties like that have been made. Now, certain concessions have been brought forward in connection with these treaties. We would like to be clear as far as the Department is concerned on those treaties. For this reason, that we maintain that all those treaties were made in reference to certain areas, and we do not doubt the validity of those treaties, we do not try to argue as though the treaties were made in the dark; and that they are not binding upon the present generations that are concerned—we do not say that—treaties, of course, if they were looked upon in that way would be useless; and we are not prepared to advance any argument of that kind. But we do maintain this, that while those treaties, made by certain bands or tribes affecting those particular areas that are described in them; it did not take away from those lands the aboriginal rights that they had in areas extending beyond those

particular areas that were surrendered in those treaties. Because we have somehow—argument has been advanced that because certain tribes or certain bands have made treaties in the past that they are excluded from this movement, that they should not be considered very seriously in this movement, that in the final settlement of what is known as the Indian land question, they cannot receive the same consideration as the other bands or tribes of Indians who had not made any treaties. Now we would be glad to get information on this, I want to assure you it is not for the sake of arguing that we bring this question up; just for enlightenment; we would like all the light we can on this particular matter, because we think it is so very important.

DR. SCOTT: Of course we must, I think, all recognize the binding nature of these old agreements, with reference to the cession of aboriginal title. To broaden the case, if you were to imagine that the title to the whole Province of British Columbia had been extinguished at that time, we would not now be sitting here.

MR. KELLY: True.

DR. SCOTT: But it would be my own view, in consideration of the general settlement of the question that the Government might as a matter of grace consider that whatever stipulations were to be given to other Indians would also apply—not stipulations, but whatever compensation for the Indian title would be given to other Indians of the Province, would also apply to the Indians

residing within these surrendered territories. That would be my own recommendation; how it would be received by the Government I cannot tell; and I am not making any binding statement of the Government at all.

MR. KELLY: We understand.

DR. SCOTT: And that is as far as we can go today; that is simply I am personally speaking in the matter--- which might better take the form of a recommendation. Does that, Mr. Kelly, fairly satisfy you?

MR. KELLY: I think so.

DR. SCOTT: So far as we can go today.

MR. KELLY: Yes. But just one other matter in that connection, that we would like to be informed on.

MR. PAULL: What you have just said, Doctor, is exactly in keeping with the prayer of those Indians connected up, that are within the territories of these treaties. Now one other demand that they would make is that they be put in the same category as the other Indians in British Columbia in the matter of additional lands required. I think we would not like these Indians to be looked upon as, Well, you have <sup>made</sup> a treaty, you cannot get any more land. Yet today they are in need of more land in some of the districts, especially in the Fort Rupert District. They made a treaty with the Hudson Bay people, and they have very small reserves. When the Commission was here they made a great number of demands for additional lands; they were granted a piece of land on top of an island, Malcolm Island, which is not



satisfactory to those Indians. That is one other request that these Indians have to make, that they be given the same consideration as the other Indians in the matter of additional land requirements.

DR. SCOTT: I think the statement I have already made ~~will~~ would cover that point as well. I cannot say what action the Government will take on the report of the Royal Commission, and I do not wish to say anything whatever in a binding sense about that.

MR. PAULL: I am sure these Indians will appreciate what you have said; and trust that your recommendations in the future will result in their benefit.

MR. KELLY: We think that we have now come to a matter of medical attention, which is a very important question. I was impressed by the statement presented by the Chief Inspector the other day, to notice just how much is being expended on medical attention every year. That is a very important thing, and we appreciate that. But the value of medical attention is such a huge thing, and such an important thing, that we feel called upon to emphasize perhaps further expenditures along that line. I do not think it is necessary for me to go into any exhaustive statement.

I was going to point out why the matter of medical attention is so important. It is recognized by every one that the Indian is passing through what is known as the period of transition, from that free open life, unrestrained life in a way; he has been compelled to accustom himself

to conditions imposed upon him by customs of civilization. And I am not prepared to say that in every case this has been to his advantage. He has suffered, I think, physically, as a result, in a great many ways. Even to the present time he does not know just how to adjust himself to many things. And as a result, he has suffered; perhaps the most outstanding matter in this is the need of more attention for those who are affected by tubercular trouble. That is a very serious thing. And on that very matter I have a very important material to bring forward. And I did not think we would get this far today, and I did not bring the papers that were placed in my hands in connection with this. However, while others speak of this, I hope to go and get the papers. I would like to have them recorded here. The papers deal with a petition which was circulated among all the influential men on this coast, praying for the building of a sanatorium for Indians who are affected with tubercular trouble. There is nothing like that in existence in this Province for Indians. I have not got this matter in study, that is to say, in close attention; I am not prepared to say what is the percentage of those who die every year from tubercular trouble; but I think I can venture to say this, that at least ten per cent of the deaths every year are directly due to the effects of tubercular trouble. On investigation it may be found that perhaps it is more like twenty per cent. But I think I am quite

safe in saying that. Now what happens? A single member of the family becomes affected with tubercular trouble; that member is not removed, he lives in the same house; no particular laws of sanitation are observed; and it passes from one to the other. I know from my own experience, from my own observation. I am thinking of a particular family; a family that I knew well, and used to play with as a boy. Out of four members of that family not a single one lives today, and they grew up to be strong healthy young men and women. But one member of the family was stricken with this tubercular trouble; they all lived in the same house; and within ten years they all passed away. Now that can be repeated I think in many instances. Just through lack of proper care, through lack of proper attention, the Indians are gradually dying off, and dying off very fast.

Now I am not prepared to say what other matters can be brought in; I think the day is now far past when people used to whisper about certain kinds of diseases. I have in mind venereal diseases. It is a serious thing. It is the one thing that is fast killing not only the Indian race, but many other races off. And I am inclined to think in case of Indians, when they become affected; instead of going to qualified doctors, they keep it under cover, they do not want to speak about it, and they try to doctor themselves. The result is that it spreads; it permeates the whole system, not

only that single individual, but you know it is passed from one to the other. And there is no way of stamping that out; there is no way of putting your finger on that. And that sort of thing is undoing all the work that is being done by missionaries, by teachers, by the office of the Indian Department who are trying to alleviate the sufferings of the Indian, trying to help him to qualify to take his place in the body politic. But these things hinder the work, are stumblingblocks.

Now the detail of carrying out of this we are not prepared to lay out in a program. We simply mention this. No doubt when this question is taken up, men who are experts on the question would be appointed, and they would look into the matter; and they will recommend the proper procedure, and the proper institutions to be put up. But we insist that it is absolutely necessary for closer medical attention to be given to the Indian, and the treatment of these diseases that are so quickly carrying off the Indian race.

Closer inspection should be made in the schools, also. I would like to emphasize that. Now in the boarding schools, this may be true-- in the boarding schools no doubt medical men are brought in from time to time, and they examine the pupils; but that does not apply to day schools. I speak from experience in this. And if it does not apply in a day school, which is situate in the heart of a city where medical men are available, it is ten times more true

of places where medical men are not so easily brought in. And, once again, I would like to say, pupils who come from homes where there is disease, there is no way of checking them at all. There is no record kept, and they come and mingle with the other children. First it is passed on from one to another, and the process of passing from one to the other goes on. If we were in position to trace the history of many of the diseases, I think we would be surprised to see how easily the matter could have been segregated in the first instance. And because of the conditions that obtain now we are not able to do it. Therefore we feel that we must insist upon closer medical attention for the Indians of this Province.

DR. SCOTT: Does any other one of the committee desire to make any observations on this point?

MR. PAULL: Just to be enlightened on these expenditures, I would like to ask the Chief Inspector, W.E.D. are all these amounts ~~as~~ appropriated by Parliament, or are there some amounts that are spent for medical purposes on the Indians? Because my knowledge is that some tribes—that the necessary expenditure for medical attention is in some places borne by out of the funds of the tribes. And these items that you read in Vancouver, are these sums appropriated by Parliament?

MR. MITCHELL: Dr. Scott has just told me that those are all parliamentary expenditure, they are public funds. There are some cases where tribes have large

funds of their own, and they pay their medical man out of that. But these expenditures are made purely from the public funds of Canada.

MR. RAULL: Well, I think in any representations that the Indians of British Columbia will make now, will be with the idea that the money to be expended for medical attention will all be borne by the Government of Canada. That is what is in our mind. Now, I don't know, if it is not asking too much, if that will not be the case? That is what we meant in No. 8 there, under Article 16, Page 14, "By establishing and maintaining an adequate system of medical aid and hospitals." Now this would be part of the compensation.

There is nothing that I would like to say in connection with what the Chairman has ~~said~~ said; but I would like to question the Doctor with one observation of my own, and that is the great necessity for medical attention on the West Coast, and the necessity for a hospital on the West Coast. Now some of those Indians on the West Coast go to Rivers Inlet just for the privilege of entering into the hospital; because there is no hospital on the West Coast. I cannot find any words sufficient to emphasize that necessity; but I respectfully draw the attention of the Department to that necessity. They have one doctor at Tofino, and another doctor I think at Alberni. And I do not want to be critical, but I want to be frank on behalf of the Indians, in this way,--- they complain that they are not receiving due

attention from these two doctors; and I, on their behalf, respectfully draw the attention of the Department to that complaint by the Indians. I am sorry to be critical, but I am placed in a position where I must try to present the views of the Indians.

Now in around the City of Vancouver all the medical facilities are close at hand. But I think in the outlying districts, my idea is borne out by scientific men from the Geological Department of Canada, who have been among the Indians sometimes in the course of their work; they have thought that instead of having a common layman as an Indian Agent, would it not be possible to have a doctor there, who would act in the capacity of that profession, and in the capacity of Indian Agent as well? I would respectfully draw the attention of the Department to that.

Now I think it would be in the interest of the Indians if the Indian Agent instead of being stationed at his particular place, instead of staying there, it would be in the interest of the health of the Indians if he would from time to time make a periodical visit to all the different sites. Because some of these reserves are a long way from the office of the Doctor or the Indian Agent. I think Mr. Kelly covered the rest of what I had in mind to say.

MR. REID: One further point, Dr. Scott, as re the Indians that are affected with this disease of tuberculosis. I know of instances in Vancouver

where Indians have applied to be admitted into Kamloops, to the sanitarium there; and I don't know of one yet that has been able to get there. I have tried to assist Indians myself to get them into that institution. But in all cases they have been told that ~~the~~ it is full up and there is no more room. The day after, in my line of work, where I am working with them, a large organization, at the next meeting it is read out and reported by our secretary that so and so has gone up to Kamloops, to the Sanitorium. But in all instances I never knew of any one particular case where an Indian has been admitted to Kamloops, that is from the Coast.

MR. MITCHELL: You are correct; they do not take them in; they say they have plenty of white people on the road.

MR. REID: I am bringing this up to show the necessity of the Department doing something in that line. Mr. Kelly has gone to get the petition of the Northern Indians; and he may want to say something on it.

DR. SCOTT: I understand from the remarks, and from the hearing of Sub-Section 2 of the 16th Clause, that you would expect the establishment and maintenance of an adequate system of medical aid and hospitals as part of the compensation of the cession of the aboriginal title?

MRS. COCK: Yes.

DR. SCOTT: That matter would be given careful attention by the Government.



MR. REID: We say that; that that is part of our compensation.

DR. SCOTT: There are some valuable provisions in the Indian Act now with reference to the health of Indians, and the treatment of communicable diseases, which no doubt you are aware of. But in British Columbia, unfortunately we have not the hospital accommodation necessary to deal with such a prevalent disease as tuberculosis. Under the Act we would have the right to—I don't want to use the word incarcerate—to take an Indian ~~as~~ having tuberculosis or any communicable disease and place him in a hospital. We simply have to make a recommendation to that effect, and any Indian in Canada can be taken against his will, just as if he was arrested, so to speak,—but of course a beneficial arrest, and placed in a hospital. In other parts of the country, while in some districts we have our own hospitals, we usually make use of the hospitals established for white persons. And upon the whole I think that is the best policy, where they can accommodate the Indians who require treatment. I am sure that this question will receive the very earnest attention of the Minister.

W.K.O.

MR. REID: I might state, Doctor, that the Indians being placed in what we will call here a white man's hospital, that is intermixed in the hospital, they do not get very satisfactory treatment there. That is the Indians themselves say so. Some Indians that we know of have been in these, what we are pleased to call white man's

hospitals, and they come out and they have gone into the hospitals that are solely for Indians, and they think that they get better treatment in their own hospital than what they do in the white man's hospital. The hospital such as is up north, it takes in everybody, regardlessly. What I am meaning is this, it is in the northern district that I speak of as the Indian hospital, because there are mostly Indians in there. They think if there was a hospital set aside for their own particular use, it would be better than having to go to hospitals where they are mixed up with the other patients.

MRS. COOK: My experience of the matter has been that. That is the policy of the Indian Department, that when an Indian needs medical attention, and it is a bad case, he will be sent to a hospital near by. And there is a grant given to that hospital; and the Indians pay for themselves in most cases. But we have found that they are not wanted there. They are not wanted in those hospitals; they may take them in for a few days, but after a few days they are told well, you can go home as soon as you like—and of course if you tell an Indian they are well enough to go home they will go home right away. But they are made to feel they are not wanted there and it is better for them to go home. I speak from experience, as we have a hospital at Alert Bay under the Coast Mission there. And we have found, and the doctors<sup>that</sup> have been in that hos-

pital have told me repeatedly," Mrs. Cook, the only way you can do is to ask the Indian Department to put up a little hospital, it does not matter how small, even cottages, that will take in these Indians, because I cannot find nurses that will come in here and are willing to nurse the Indians in these hospitals." And another thing, he says, "we find that the white people, you see—that is central hospital in that locality—the white people coming in there are afraid of these contagious diseases that the Indians might have. And another thing is that they have to <sup>take</sup> in so many maternity cases, and the maternity cases are afraid knowing that there are Indians in the hospital. And so they find that difficulty. It got so serious at one time that we really thought of collecting money individually. Mr. <sup>Antle</sup> ~~Anthony~~ made me the offer that if I would collect the money he would furnish an outbuilding that they have out there, where we could put the Indian cases, so they would not be in the same building with the white people's cases. And that is the way we have found it in our part of the country. And every doctor that we have had there has put that up to me, that I must start and try to get a hospital of our own, for Indians only; and he says that is the only thing that will work out, and the only way to do it. He said that nurses that come to such a hospital, understanding that they have to nurse the Indians, that they will stay

there. That is why we have not found the hospitals satisfactory up there around that locality and Kwawkwalth Agency.

MR. ELLIOTT: I wish to confirm what my lady friend has said. I took sick one time of Typhoid fever, and I was sent to the Nanaimo Hospital; I was sent there against my will, I knew if I went to the hospital I would not get attended as I ought to. I tried to cure myself, but I was sent up to the Nanaimo Hospital. And when I was able to get out of bed I was sent to the ward, I was told by the Doctor he thought I was able now to get along without his aid, and I was to go home. Now I was only three days out of the other ward, and could not hardly stand on my feet. I believe it was God's power that put me on my feet. I was turned out of that hospital, out to the station, taken out in the buggy and dumped out at the station; I had hardly strength enough to get my ticket to come home. And I told the Doctor before I left that one of my legs was swelled; he would not believe it. I told him I knew very well by the feeling of the leg that leg has got a swelling. And today, sir, it is so sore, in that place I can hardly bear it at times. Now we want different treatment from that. Honourable sir, I thank my lady friend for her stand; and in view of what she says, it ought to be attended to; and I think that we ought to have hospitals on the Indian reserves. If the people are not enough on one Indian reserve, there should be a

hospital there for two or three tribes, anyway.

MR. KELLY: This is the petition I refer to, Dr. Scott, if you will allow me to read it, it will be incorporated in the record, I hope.

DR. SCOTT: Let us take it as read, and hand it in, because I have a copy of it too.

MR. KELLY: Well, we would like to say that this has been handed in to us, and we approve of it, therefore we would like this to go in the records. It would be a good idea if I may suggest that instead of the Department paying certain doctors so much per annum, that they be paid for the visits they make, for the actual work they do. I think we would have better attention if they did. I am not going to make any personal remarks about any doctor; but I have phoned for men when in my judgment medical attention was necessary, and these men who are supposed to be responsible, and who received money from the Department for that particular purpose; would go on and tell me how much gasoline they have burnt, and how much their tires have been cut up by glass, by making trips down there, and how much drugs they have passed out, that they really are not making enough out of it to bother very much with it;—which is a serious thing. And we think it would be a good thing if the Department were to change the present method, even before more intensive attention is given, and pay the doctors for the trips they make, and not give them just a blanket fee for the year. The Indians would have bet-

ter attention, I think there would not be that tendency to neglect that exists at the present time. So I would just pass this in.

MR. PAULL: What our Chairman has said I think is true in some cases; but in justice to our doctor, I would like to make an exception; that is the doctor for the Squamish Indians, Dr. T. A. Wilson; he certainly gives his time to the Indians in preference to other practice. But I notice in other districts, without making any specific charges, the Indians are certainly not satisfied with what they call the "Caster Oil" Doctors.

\*Petition sponsored by the  
British Columbia Indian Anti-Tuberculosis League.

"WHEREAS WE, the undersigned, view with greatest apprehension and alarm, the great amount of Tuberculosis prevailing in its different forms among among the Indians of the Coast of British Columbia, which has for a long time been a menace, both to the Indians unaffected, and to the white people settled on this coast;

"AND WHEREAS the Government of this Dominion and of this Province have in view extensive immigration plans for the settlement of this Province, as well as other portions of Canada;

"AND WHEREAS there are no Tuberculous Hospitals on this Coast for treatment and segregation of active cases particularly among the Indians and consequently such cases die in their homes surrounded by their families and many friends, who, through sympathy and long custom congregate about the deathbed

some time before death, thereby being affected;

"AND WHEREAS a careful report on this appalling condition of affairs compiled by the Medical Superintendent of the Alert Bay Hospital, covering the total population (men, women & children) of six tribes was sent to the late Government, and is on file for reference;

"WE, the undersigned, consider that the bringing of such immigrants to this Province, and settling them on this Coast while the above mentioned conditions are prevailing, would prove abortive if the public, both in Eastern Canada and abroad, became acquainted with the facts.

"WE, the undersigned, also believe that the establishment of such hospitals, exclusively for Indians would not only stem the spread of the disease among the Indians, but would also safeguard the lives of settlers who contemplate settling in this Province. Such hospitals, we believe, should be built on one of the plateaus on the Coast with which the Indians are familiar, and which are on their regular boat routes as it has been proved that it is difficult to get them to go to the Interior so far from their homes."

"BE IT THEREFORE RESOLVED that we, the undersigned, do most respectfully and earnestly petition you to use your utmost power to have action taken in this matter."

(Signed by 218 Indians.)

(NOTE. Signatures from the Naas, Bella Coola, Bella Bella, Powell River, Campbell River, Valdes Island, Churchhouse, Simeon Sound and Central Vancouver Sections are still to come in, and will be added

to the following at a later date.

"Joseph T. Mandy", Secretary.)"

MR. KELLY: Connected up with this very important matter of medical attention, which we have been speaking of, education naturally comes as the next order of things.

We notice with gratitude that as the years go by the Department is taking keener interest in matters of education than it has done in the past. The Deputy Minister has informed us that for the present year a large additional sum was obtained from Parliament for this very purpose of erecting new buildings, largely buildings in this Province; and we are glad of that. For if there is anything that would place the Indian on something like an equal footing with the white man, it is education. I was just thinking about this very matter now. Take the Executive Members of the Allied Indian Tribes—I don't say this in any way boastingly—but just pointing out a fact that I think in almost every instance a member was picked because his fellow tribesmen saw that he could present their views—I mean she included in that—present their views intelligently. Somehow, although it may not be admitted in so many words, they feel that one who has had educational training is able to bring any grievances before the Indian Department, or the Government, better than the one who has not. This is becoming evident in most of the Indian villages, in the larger centres especially. We notice that in the north-



ern, the larger villages up the northern coast of British Columbia in the elective councils under the Advancement of Indian Act, the majority of the members of these councils are graduates of our schools. I notice that in Skidegate, I notice that in Massett. And although I have made no examination of the matter, but I think that is true in Port Simpson; it is true in Kitimat---in fact I think it is true in all the villages I can name, up in the northern section of this Province. The Indians are realising the value of education; and those who have made their contribution to the general progress of the Indian race, were the ones who had some educational training.

But we beg to maintain that, as important as the work that has been done in the past is, <sup>sufficient</sup> it is not altogether to qualify the Indian to meet the conditions that he is called upon to meet at the present time. To be able to read and to write and do elementary kinds of arithmetic I do not think is quite enough. He has been brought to realize that if he is going to compete with his white brethren, with his white neighbors, he must have certain qualifications, he must have certain trainings.

Now I have always maintained this,--for illustration, the white people who are farmers realize this, although they have brought their sons up on the farm, the necessity of sending those boys off to agricultural colleges exists, because new methods, progressive methods are

found necessary by these old farmers, if they are going to maintain that general upward progress. Now if that is true in the case of those who have had such extensive experience along intensive lines in farming, how much more is it necessary in the case of those who have had no training at all? That applies to that one branch.

We can point out many things. The Indian has not had the chance of learning trades, he has not had the chance of going to any of the vocational schools, or technical schools. He has not been trained along those lines. Even at the present time you will admit that the Indian still is in the habit of that free and easy sort of life. He does not want to be bound down to any strict time, or any strict program. But he also realizes that the time has come when he must depart from that if he is going to take his place at all in this large stream of civilization. Therefore we maintain that he must receive more intensive training, not merely in the matter of pure education, such as we are receiving now, but more along the lines of being trained.

Now it was found necessary in the case of the returned soldiers that they be placed in institutions where they receive special training to fit them to earn a living. I have noticed remarkable changes in the life of older men. I have seen men who went to the front, men with families, who came back and who went for six months to certain places where they received training; some of these men are on their feet

today in an independent way, making a living. I do not see why the Indian could not be put on a similar basis; where they could go to a place, be kept there; and be permitted to learn certain trades, or certain vocations that will appeal to them, and for which they are fitted. That is one of the things we have in mind when we say a technical training.

Then of course the matter of higher education comes up. Although I believe that the Department has financed some of the Indians in the different parts of this country to get college education, I do not think it is generally true. Some in this Province have striven to get certain kinds of education which they thought was necessary for their welfare, and they were not able to finance their way. The Department did not see fit to carry them through, because of the nature of the training which they had before them. I realize that there are not very many at the present time who are striving to get higher education. But it does not say that that is not going to be changed. I do believe that in the near future there will be more Indians who would be striving to get higher education; and we would like to have provision made for it; and we would like to see the Indians go through the public schools, and through the high schools, and then if they are fitted to go through college, we would like to see them be brought right through to graduation, from the universities. We had in mind something similar

to that which exists across the international boundary line; I am thinking of Carlisle School for the American Indians in the United States. If we had something like that in Canada—if not in B. C., in Canada—perhaps Carlisle has been over emphasized—it is not a college in the true sense of the word, I understand, it is more like the Collegiate Institute. It does not pretend to take just the higher branches of learning, it takes high school work, and sometimes public school work. But I have noticed these young men who have been through Carlisle School; they come out with a certain amount of feeling of independence, they feel somehow that they have been brought to the position where they are on equal footing with the white man; and it gives them that feeling of confidence. Now I do not say that that in itself is enough. But we would like to pass that. We would like to have an institution where our young men and women would be so fitted that they will be able to take their place in the larger public life of this country, and feel that they are equal to any life. Now I do not see why that should not be. We stress that because we think it is a necessity.

DR. SCOTT: If anybody else would like to make a concrete statement as to education, it will be well; but I think practically enough has been said; although I would like it placed, as you did the fishing question, in a more concrete form.

MR. KELLY: I think it could be done.

DR. SCOTT: For instance, on a half a page of foolscap the Minister could get your mind on the question of education.

Beyond that, I am not aware that there is anything left, except a few general things.

MR. KELLY: Well, we will agree to an adjournment.

DR. SCOTT: And it will be a definite arrangement that we will close tomorrow. I think we can clean the slate tomorrow.

MR. KELLY: We will strive to do that.

The Conference here adjourned until tomorrow.

Friday, August, 10, 1923; at 2 P.M.

DR. SCOTT: I think we were discussing the question of education when we adjourned. Are you prepared to go on with that subject now?

MR. KELLY: Yesterday we discussed in a general way educational matters. We realize that today we must confine ourselves to something definite; but at the same time until actual negotiations are entered into, we find it a little difficult to talk about all the details of adequate system of education. Any one who gives that a thought can see that point at once. But we realize this, there are certain defects in the present system of education as it affects the Indians in this Province. We have public schools for Indians established throughout the Province. Now, the first thing we realized this morning was this, there has been wonderful improvement made in the way of getting qualified teachers, but we feel somehow that there is still

a great deal of room for improvement in getting qualified teachers to teach in all the public schools— when I say public schools of course I mean the Indian Schools. / And we venture to think that in future, if that system is put in vogue in all the schools, that better results will be shown.

It was brought to our notice this morning by one of the Executive Members that in one section of the Province during the past two years several pupils were passed into the High School, and after they were passed into the High School, it was found in those particular localities that they could not continue their studies. This happened when they were about fifteen and sixteen years of age. Although their parents, when they entered those schools signed an agreement that they would be there until they are eighteen, because they passed into the High School earlier, there was no provision made at all for the continuation of their study in that place. The result was that they had to go out. And as far as making provision is concerned for the studies of those pupils, it is ended, unless their parents are in position to send them down to the centres where there are High Schools. And I beg to say that that is not always possible. Financial difficulties come up at once, their parents are not in position to finance them when that happens. Now I will now name the place. This happened at Alert Bay. Now I do not say that sort of thing obtains in every section of the Province;

but I venture that <sup>with</sup> an inauguration of a higher standard of the teaching staff all over this Province, we will see more of that sort of thing. And we press for it, of course, we would like to see it, we think it is a necessary thing.

Now we propose this, that instead of the pupils being compelled to stop when they have passed into the High School, that a provision be made for a continuation of their studies, where it is near centres where there is a High School, for instance, Nanaimo, or North Vancouver, or Chilliwack, the places where they are close to a High School, that provision be made for the continuation of their studies with these High Schools. We think it is a good thing for the Indian children to come into contact and direct competition with the white children, that it will be better; I think that goes without saying. But where that is not possible, we would propose that an institution where they could carry on that education, be set up.

Now we do not think it is possible for the Department to do it in a day; but we would respectfully suggest that the continuation of their studies be made possible. And as it has happened in the past, in several instances, where pupils have passed from High School to the higher learnings,---where they are matriculated, we suggest that, once again, the door be open, provision be made for them to continue their studies, the study they are best adapted for---I do not

say just what that should be; but give them a chance to continue their education. Now that provision is not at the present time made. If it is provided, it is so vague that it has been found very difficult to operate in all cases. If a central institution was established; where all the pupils from outlying districts, I mean all the sections of the Province, were brought into close contact, in carrying on their higher education; we venture to think it would be a good thing for all the Indians to come closer together, to understand each others view point; it would break down the sectional differences that obtain in this Province at the present time. Now with regard to vocational training; some of the industrial institutions are attempting that. I am glad to say at the present time in Chilliwack a certain amount of that is being done. But there should be a definite provision made for that. Now I want to illustrate what I want to bring out. I have been through the Chilliwack Industrial School, and know at least in my time the things that obtained there. I came from a country where farming is not a necessity, we did not have land for farms, and farming was a useless thing for myself; but for three years I went out---I don't say it did me any harm, I think it did me good, I admit that---for three years I used to go out there half a day, and pretty much during the whole of the summer, work out in the fields. I plowed, and did everything that one



is called upon to do on a farm. It did not do me any harm; I am glad for that experience, but at the same time; what I mean is this, instead of that time being occupied in a thing that is not an absolute necessity, it would be a grand thing if provision were made for those pupils to spend their time on something that will fit them for the battle of life. I don't want to depart in a general way from what I have to say, but I think it is generally conceded that educational system not only of B.C. but the general educational system of our country is rather defective, because it does not qualify the students for anything very definite. Education is too general. Why cannot we take the lid off our Indian education, in qualifying the pupils for something very definite; and instead of scattering their energies over things that are not altogether considered necessary; bend all their training towards something; so that when they come out they will be prepared to take their place, and put their hands to the wheel; and feel that they are equal to stand side by side with other men and women. Now that is what we would like to see done. Of course, once again; we point out that the carrying into operation of all this, is detail matter that we feel we are not qualified to speak on. But we simply point this out in a general way.

Now I think that covers our educational system that we have in view---only this---it is

simply amplifying what I have already said, that instead of as it obtains in the Industrial Schools at the present time, perhaps three hours in school in attending classes, and the other half a day going out in the fields, somehow some of our delegates feel, and we all concur in that, that that savors of child labor. Now we do not object to the children doing something; but what we mean is that in some cases young boys have been put out in the fields and compelled to do hard labor. I use that word advisedly; such as clearing land, which is a fairly heavy work. We say, instead of doing that, we would like to see a system put in operation where these boys---of course that applies to girls too---instead of doing something in a general way, will have to be put to the task with something in view; the work that is necessary to be done; but at the same time qualify the pupils for something very definite, and thoroughly trained all the time for something definite.

The criticism has been made that the Indians have not made good in the lines of higher education, such as qualifying for doctors or lawyers. If the Indian has failed there, we are sorry he has failed. But I always like to bring this in, we must think of his immediate past, the mode of life to which he has been accustomed, and he is just stepping out of that. Then if he has failed in the past, we venture to think that he shall be more successful in the future. I do not know of any young Indian boys and girls who

are aspiring to be qualified doctors or lawyers; but if they are adapted for that, I should like to see them get the chance of going on and qualifying, not thinking of the financial burdens that are placed upon those who are striving to get that. I know a little whereof I speak. If you will pardon a personal reference,--I had to go through a little of that myself, although it is several years ago; the financial burdens that I had to assume, are still staring me in the face. And I think many a man is placed in that exact position. And we would like to see the Indian young men and the young women feel that they need not be hindered from going on because of financial burdens; that the way is open for them. Now that is all that is necessary for me to say on that particular head.

Now, in our statement which was submitted earlier in our conference, a statement of the Allied Indian Tribes of British Columbia for the Government of British Columbia, we have already pointed out what we consider to be a necessary basis of settlement. We said we would amplify these several paragraphs. Now we come to No. 8 of that, on p. 12,-- "That it be conceded that each Tribe for whose use and benefit land is set aside (under Article 15 of the 'Terms of Union') acquired thereby a full, permanent and beneficial title to the land so set aside together with all natural resources pertaining thereto; and that Section 127 of the Land Act of British Columbia be amended accordingly."

Now, just apart from that, it may be necessary for us to point out why we have brought that in. And instead of confining ourselves to a very formal statement on that, perhaps it would be necessary, of course, to ask a few questions on that. We say we would like to have a full, permanent, and beneficial title to the land so set aside together with all natural resources pertaining thereto. I think an Act has been passed in this Province, not so long ago, whereby any prospector can prospect on an Indian reserve. Now we had such a thought as that in mind when we said that. We say the Indian has a full, permanent beneficial title to the lands of the reserves. The new reserves that were recommended by the Royal Commission I think were set apart with the distinct understanding that they were subject to the Mineral Act of the Province.

MR. DITCHEBURN: I may correct you there, Mr. Kelly; it says, any rights acquired under the Mineral Act of the Province. On some of these new reserves are lands on which there are certain claims that have been recorded, mineral claims.

MR. KELLEY: We would like, if it is agreeable, to have this particular Section 127 of the Land Act of British Columbia read here.

DR. SCOTT: Very well.

MR. O'MEARA: I will read from the Revised Statutes of British Columbia, 1911, Chap. 129, Section 127: "The Lieutenant-Governor in Council may at any time, by notice signed by the Minister and published in the Gazette, reserve any lands not lawfully held

by pre-emption, purchase, lease, or Crown grant, or under timber licence, for the purpose of conveying the same to the Dominion Government in trust for the use and benefit of the Indians, and in trust to reconvey the same to the Provincial Government in case such lands at any time cease to be used by such Indians; and the Lieutenant-Governor in Council may also similarly reserve any such lands for railway purposes or for such other purposes as may be deemed advisable: Provided always that it shall be lawful for the Lieutenant-Governor in Council to at any time grant, convey, quit-claim, sell, or dispose of, on such terms as may be deemed advisable, the interest of the Province, reversionary or otherwise, in any Indian reserve or any portion thereof; provided that a return of any alienations made under the provisions of this Section be submitted to the Legislature at the next sitting following such alienations, within fifteen days after the opening thereof."

Now we bring this section specially before you, because it raises distinctly the issue of reversionary title, which has been for a long time claimed by the Province of British Columbia. That is perfectly clear from the language of the section, and I need not say anything more about that, except that this section seems to be the practical way in which the Legislature of British Columbia seeks to carry out the claim that the Province has reversionary title to all Indian reserves. Now I point out that that is

a very sweeping claim. I point out, also, that in the Provisions of Article 13 of the Terms of Union there is not one word creating reversionary title---conferring upon the Province reversionary title. The words are positive and definite, that the lands shall be conveyed to Canada, and shall be conveyed to Canada for the use and benefit of the Indians. There is nothing in Article 13 similar to what the Province has inserted in Section 127, namely, that the conveyance is to be in trust for reconveying the lands under certain circumstances to the Province of British Columbia. And I am not pretending to deal fully with such a big subject as the reversionary title, gentlemen, but simply sketching the matter briefly. Let me point out that until quite recent years---I should have said, to begin with, that the Allied Tribes, all the Indian Tribes claim that there is no such a title, and never has been such a title. Until recent years it can be shown very clearly that the Government of Canada took that position; it can be shown by debates that occurred on the floor of the House of Commons of the claim made by British Columbia, that they had the reversionary title in contested by the Government of Canada. In recent years it would appear, it has been conceded, that British Columbia has a reversionary title, and the outstanding proof of that is to be found in the report of special Commissioner McKenna, which deals with the matter of extinguishing what he describes as the reversionary title

of the Province. The position taken by the Allied Tribes is shown by No. 2, and that is, that when land is conveyed to Canada, under Article 13, what should pass is a full, permanent, beneficial title.

DR. SCOTT: Well, do you wish to also claim the precious metals under the title to reserves?

MR. O'MEARA: I beg to say that we have never given that a full consideration that it deserves.

DR. SCOTT: Precious metals are the prerogative of the Crown; that is, they belong to the Province in this case. Well at the present time we understand that if the report of the Royal Commission is confirmed by both Governments, the reversionary interest disappears.

MR. O'MEARA: We understand that, yes.

MR. KELLY: Not altogether?

DR. SCOTT: Oh yes, it disappears absolutely.

MR. DITCHBURN: <sup>until</sup> When the Indians all die.

MR. O'MEARA: Upon that point, let me read a few words.

DR. SCOTT: I am speaking of the reversionary interest of the Province, not the final reversion as to lands and moneys that exist after the extinction of the Indian Tribe.

MR. O'MEARA: In a modified form the reversionary title is—

DR. SCOTT: No, not a modified form—they are two separate and distinct things, all over the country. The second proviso obtains, that is, upon the extinction of the Indian interest the lands and moneys that remain, go back to the Province.

MR. O'MEARA: Yes, under No. 7 of the Agreement.

DR. SCOTT: Yes; but I have said that it exists, throughout the country, not only in the McKenna-McBride Agreement, the application of which is to British Columbia alone; but throughout the Provinces of the Dominion, if the title for the Indian lands become lapsed by reason of the extinction of the tribe, that is if the tribe dies and disappears, and nothing remains of the Indian interest, then everything that remains, the lands and money, goes back to the Province.

MR. O'MEARA: I quite recognize, Dr. Scott, that the sort of reversionary title reserved by this No. 7 is different from the one claimed by the Province. I entirely agree. But I wish to point out that the Allied Tribes take issue with both; they take issue with the reversionary title to the Province, and they take issue on this part of the McKenna-McBride Agreement. Here are the words of No. 7:

"The lands comprised in the Reserves as finally fixed by the Commissioners aforesaid shall be conveyed by the Province to the Dominion with full power to the Dominion to deal with the said lands in such manner as they may deem best suited for the purposes of the Indians; including a right to sell the said lands and fund, or use the proceeds for the benefit of the Indians, subject only to a condition that in the event of any Indian tribe or band in British Columbia at some future time becoming extinct, then any lands within the territorial boundaries of the Province which have been conveyed to



the Dominion as aforesaid for such tribe or band, and not sold or disposed of as hereinbefore mentioned, or any unexpended funds being the proceeds of any Indian Reserve in the Province of British Columbia, shall be conveyed or repaid to the Province."

That is the new reversionary title that we take issue with.

MR. KELLY: Isn't it true, Dr. Scott, that that applies to not only the Indians but to every citizen of the country?

DR. SCOTT: Practically, yes.

MR. KELLY: If a man dies and leaves no heirs, his estate goes to the Crown, does it not?

DR. SCOTT: Yes; there is nothing against the Indian interest in this; because the interest would be what became of the Indian money and land when the interest is extinguished.

MR. KELLY: It does not do away with the idea that perhaps after we are through with this large matter which we have been discussing for many years, the aboriginal title—if we are finished with it, we will have arrived at some provision made for that particular thing. For instance, if there was only one remaining member of a certain tribe, and he qualified to take upon himself the full rights of a citizen, would he not be empowered to dispose of that?

DR. SCOTT: I think so, yes; I think it would be his property. I think that is perfectly logical. However, I do not think we need take up our time in debating that question.

MR. KELLY: Of course we beg the right to say that

if we should come down to negotiation, that will be one of the things that perhaps will be looked into more closely.

DR. SCOTT: Yes.

MR. DITCHBURN: I think you made a statement a few moments ago, Mr. Kelly, about a law in the Province being recently enacted which gives people the right to prospect on Indian reservations?

MR. KELLY: Yes.

MR. DITCHBURN: That is only for the precious metals. And then it is subject, of course, to certain conditions that the department of Indian Affairs lay down in connection with that prospecting.

MR. KELLY: That is to say, it can only be prospected and operated with the consent of the Indian Department, for the Indians; that is to say, on behalf of the Indians; and then the Department takes a certain stand, insisting upon royalties, or whatever arrangements may be entered into?

MR. DITCHBURN: We cannot claim a royalty for the precious metals, but a <sup>rental</sup> ~~royalty~~ on account of the surface rights. The surface rights belong to the Indians.

MR. KELLY: Once again, that is one of those matters that must be discussed in a fuller way should we come to negotiations.

We pass on to No. 3: "That all existing reserves not now as parts of the Railway Belt or otherwise held by Canada be conveyed to Canada for the use and benefit of the various tribes." I do not know that it is necessary to add anything to that;

we beg to say that that is one of the paragraphs that must be discussed in a fair way when we come to negotiation.

DR. SCOTT: I cannot see how that applies to future negotiations, because, for instance, the title to reserves in the Railway Belt has been conveyed, and will be conveyed by minute of Council from time to time from the Department of the Interior to the Department of Indian Affairs; and provision is made in the joint Acts of the Province for the conveyance of lands in the Province. So that that is already provided for.

MR. KELLY: I see.

We have dealt, yesterday, with I think the next paragraph, foreshores.

And No. 5 was touched upon yesterday, additional lands. We pointed out that the Royal Commission did not provide additional lands in sufficient quantities.

So we pass on to No. 6: "That in sections of the Province in case of which the character of available land and the conditions prevailing make it impossible or undesirable to carry out fully or at all that standard the Indian Tribes concerned be compensated for such deficiency by grazing lands, by timber lands, by hunting lands, or otherwise, as the particular character and conditions of each such section may require."

We have already mentioned grazing lands, and we have touched upon hunting lands. But the idea was this, just as a farm is necessary in certain parts

of the country, for the wellbeing of Indians, we believe that timber lands would be a source of revenue for a long time to come, to other sections of the country where additional agricultural lands are not available. That is what we had in mind when we said that. And we do think it is a necessary provision to be included in extinguishing our aboriginal title to lands of this Province. Having said that, I do not know that it is necessary to dwell on that any longer.

DR. SCOTT: No, I don't think so.

MR. KELLY: Now we pass on to No. 7. Number 7 is simply following out Number 6, "That all existing inequalities in respect of both acreage and value between lands set aside for the various Tribes be adjusted." We do not think it is a fair thing for one Tribe to get rich agricultural lands and others get merely nothing. We may use the word of the Commissioners when they said that perhaps certain lands that have fictitious values, and we do not think it is well for the Indian to have certain useless land given him, that he cannot make use of.

And we pass on to No. 8. We consider that is one rather important: "That for the purpose of enabling the two Governments to set aside adequate additional lands and adjust all inequalities there be established a system of obtaining lands including compulsory purchase, similar to that which is being carried out by the Land Settlement Board of British Columbia."

Now the reason that the Royal Commission was doomed to failure, even before it started its work,

was this, that its hands were tied; inasmuch that it could not touch any other/<sup>lands</sup>than Crown lands; and it became apparent at once when they came on the ground, when additional lands were applied for, that additional lands were not available. The Indians did the only thing possible under those circumstances. As it happened at Neas; for instance; we applied for territorial lands; a territorial block, and of course it was not considered, because other interests were involved there. But we venture to point out that a precedent had been established in this matter; that at a certain section of this Province, Kitwankool, where the Indians did not submit to what they thought was in injustice—I quite concur that perhaps they went to extremes—but the Government bought back the land which it sold to speculators, and this land was bought back for the benefit of the Indians; to be set aside as reserves. Now if that happened in that section of the country, we cannot understand why the same thing could not have been carried out in other sections, where there were glaring needs of additional lands.

MR. MITCHEBYRN: I must correct you there, Mr. Kelly; the Kitwankool situation was this, that in 1910 the Department of Indian Affairs applied to the British Columbia Government for certain areas set aside for the Kitwankool Indians. The British Columbia Government did not pay any attention to our request, and they alienated the land. The Royal Commission on Indian affairs, when they went into the Kitwankool Valley, found that the lands that the Department

had applied for had been alienated, and they were not in position to give them anything else but unalienated lands. That was not satisfactory to this Department, and we informed the Government of British Columbia that we could not take any hand in the Kitwankool trouble until that Government took such steps as were necessary to repossess the lands that we had applied for, for the Indians. And that they did.

MR. PAULL: May I ask the Chief Inspector, at the time that the Indian Department applied for those lands for the Kitwankool people, did those people already have a reserve?

MR. DITCHBURN: No.

MR. PAULL: Or was this to be a new reserve?

MR. DITCHBURN: They had no reserve whatever. The Kitwankool people had refused reserves for a great many years.

MR. PAULL: Now that seems to be a little different from the other Indians.

MR. DITCHBURN: Yes.

MR. KELEY: Well, I just had in mind this; we do not claim to be infallible; and we are glad of any correction that comes from you. All this is enlightenment. But I do not think it weakens the position we have taken. There was no agreement to the effect, previous to 1910, between the Province and the Dominion, that if lands desired by Indians had been purchased, that those would be repurchased. There was no agreement to that effect in existence. But after an agreement had been entered into between the Province and the Dominion I think it says here that any parcel

of land which the Commissioners recommended, the Province shall withhold from pre-emption or sale, any lands over which they have the disposing power; and which have been hitherto applied for by the Dominion as additional Indian reserves, or which may be during the sitting of the Commission be specified by the Commissioners as lands which should be reserved for Indians. Now we contend that before 1912 that did not exist.

DR. SCOTT: That is quite correct.

MR. KELLY: That is perfectly clear. Now if it happened in the case of the Kitwankoolis, we don't say that it should be done in every instance, but where there are real needs it should be done.

And we would like to bring other matters into it; and we say to the Government of Canada; is it reasonable for you to ask the Province to do a thing that you are not doing yourself? For instance, the Government of Canada has full powers within the Railway Belt; it has the right to do whatever it thinks is best within that belt, without referring to the Provincial Government. So we venture to point out that where additional lands have been applied for within the Railway Belt, the Dominion Government should take steps to satisfy the needs of the Indians; and having once done that I think they can go with a stronger argument to the Province, and say, this is what we have done, and we want you to do the same, where you have absolute control over lands. That applies to No. 8. Unless you would give us information or explanation

on that matter?

DR. SCOTT: Well, I think it is noted on the record, and no doubt the Minister will give that consideration, as part of the claim. You have stated it very fully and clearly.

MR. KELLY: All right.

DR. SCOTT: We have in the past purchased lands for Indian reserves given in British Columbia; Mr. Ditchburn points out that we have purchased about 6271 acres—purchased by the Dominion Government outside the Railway Belt, and included in the existing reserves. If you would like that on the record Mr. Gilbert could copy it in?

MR. KELLY: Oh yes, I think it would be better in the record. It is for our interest as well as yours.

# STATEMENT SHOWING LANDS PURCHASED

Byt the Dominion Government outside of the Railway Belt, and included in Reserves.

BABINE AGENCY—Hagwilget Reserves Nos. 13, 14, 15 & 16  
-----1948 acres  
Purchased in 1909 from Provincial Government for the Indians, in consideration of their ceasing to place barricades in the river for securing fish.

KWAWKEWILTH AGENCY—Quatsino Reserve No. 12.....8.50 acres  
Purchased from John Thompson on 14th June, 1893.

KWAWKEWILTH AGENCY—Quatsino Reserve No. 14..... 50.00 "  
Purchased from McNiff et.al., in August, 1895.

NEW WESTMINSTER AGENCY—Pemberton Meadows.....813.00 "  
Purchased from Bishop Dentonville on 4th Nov., 1905, to be added to the Reserve.

WILLIAMS LAKE AGENCY—Williams Lake Reserve No. 1.  
..... 1464.00 "  
Purchased from the Bates Estate on 5th March, 1881.



WILLIAMS LAKE AGENCY—Soda Creek Reserve No. 8....1880 acres  
Purchased from the Bates Estate.

COWICHAN AGENCY—Cowichan Lake Reserve..... 107.50 "  
Purchased from G. Green in 1888.

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6271.00 Acres

In 1922 the Department also purchased  
from the Whittington Estate for  
Moxiestown Indians, Babine Agency. 320.00 "

Total.....6591.00 AOR

.....

DR. SCOTT: No. 9—is there anything to be said about that?

MR. KELLY: I think we will just read No. 9:

"That if the Governments and the Allied Tribes should not be able to agree upon a standard of lands to be reserved that matter and all other matters relating to lands to be reserved which cannot be adjusted in pursuance of the preceding conditions and by conference between the two Governments and the Allied Tribes be referred to the Secretary of State for the Colonies to be finally decided by that Minister in view of our land rights conceded by the two Governments in accordance with our first condition and in pursuance of the provisions of Article 13 of the 'Terms of Union' by such method of procedure as shall be decided by the Parliament of Canada."

I think that states it rather fully, and it does not need amplification right now.

MR. O'MEARA: Did the purchase of these extra lands come from public funds?

DR. SCOTT: Yes, came from Parliament.

MR. KELLY: We pass on to No. 10: "That the beneficial ownership of all reserves shall belong to the Tribe for whose use and benefit they are set aside."

MR. MITCHEBURN: That is a fact now.

MR. O'MEARA: Not according to the report of the Royal Commission.

DR. SCOTT: If the Report is confirmed it will be a fact; and when the Orders-in-Council are passed conveying the lands.

MR. O'MEARA: The report deals with the various bands.

DR. SCOTT: Oh, the Tribe, I see.

MR. KELLY: That is larger than a band.

DR. SCOTT: Yes, I know; we will note that, and that will be taken into consideration.

MR. KELLY: We have grouped several of these under one head, subject to negotiations and arrangements.

MR. MITCHEBURN: That is only a matter of policy.

MR. KELLY: Of course it is open to negotiation, and to general understanding being arrived at,

MR. O'MEARA: The fact at present staring us in the face is that this Report of the Royal Commission which the British Columbia Government has adopted by Order-in-Council, deals with the lands and the lands of the Province.

MR. MITCHEBURN: If a Tribe of Indians want to divide it up among the different bands, it does not make any difference to other Tribes, does it?

MR. KELLY: Not to other Tribes, no.

MR. O'MEARA: That is not the point.

DR. SCOTT: I see what the point is.

MR. PAULL: The request is this, that the beneficial ownership, or if you could use the word

title to the said reserves, in the name of the Band, should be in the name of the Tribe. Then if after that it is the desire of the Tribe to give individual titles to a group of them, then they would do so. But the general demand is that the title, if it could be called a title, would be in the name of the Tribe instead of the Bands.

MR. KELLY: I think that is, of course, open to a satisfactory arrangement when the proper time comes. I think that there would be no difficulty encountered there. It is just a matter of Government, you might say.

DR. SCOTT: The most important point is the question which would arise on the extinction of the Indian interest; if you were holding a group of reserves, the title being in the Tribe, the extinguishment of the Tribe would be necessary to have reversion to the Province; and if the reserve is held by a Band, the Band might diminish and become extinct, and the lands and monies would revert to the Province. I don't think we need elaborate that point; it is a subject for further consideration.

With reference to No. 11, the system of individual title to occupation of reserved lands, of course we have that system now in the Indian Act, the system of location tickets which might be applied or extended in any reserves in British Columbia.

MR. KELLY: Yes, it is open to arrangement, or to be carried out in a satisfactory manner. Then the other Paragraphs, Nos. 12, 13 and 14, we have dealt with

yesterday. So we pass on to No. 15, "That compensation be made in respect of the following particular matters:"

DR. SCOTT: Haven't we already dealt with that sufficiently?

MR. PAULL: In Connection with that No. 1 of Paragraph 16, "That general compensation for lands to be surrendered be made,—by establishing and maintaining an adequate system of education, including both day schools and residential Industrial Schools, etc."

Now we say that the maintenance of these schools be a part of the compensation. Now would it then be necessary to repeal Sub-section 6 of Section 9 of the Indian Act, where it is stated, "The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an Industrial or Boarding school to the maintenance of the children themselves."

DR. SCOTT: Well, that is a question as to whether a treaty made between the Indians of British Columbia and the Dominion Government would supersede that clause. I should think it would, because we could not carry out the terms of the treaty otherwise.

MR. PAULL: We just wanted to be clear on that, Doctor, so as to know there was no dual system involved.

MR. KELLY: I think it is covered some by Paragraph 19, at least that has been anticipated.

MR. SCOTT: Yes.

MR. KELLY: "That the Indian Act be revised, and

that all amendments of that Act required for carrying into full effect these conditions of settlement", and so on, we have that there. We realize that certain things must be perhaps readjusted.

Now, under 16, "That general compensation for lands to be surrendered be made," we have dealt with adequate system of education; we have dealt with maintaining an adequate system of medical aid and hospitals, in a general way, of course; and we have put there as No. 5, old age and mother's pensions. I don't think it is necessary for us to dwell so much on the last, unless elaboration be considered necessary. We would like to get information on this particular matter. Can you tell us, Dr. Scott, if that sort of a thing is in vogue in any part of the Indian Districts, among the Indians?

DR. SCOTT: In the Province of Ontario, we have taken advantage of their Act; and the Department occupies the same position as the Municipality in carrying out the provisions of the Act. Once the Indian band has come to its home; it may be applied; there is a proportionate share, as I understand, granted by the funds of the Province, and by the funds of the Municipality. And on the application of the Act to Indian mothers, the Department stands in the place of the Municipality, unless the Indian band has funds of its own, and then they are applied. But very few pensions have been granted.

MR. KELLY: To mothers?

DR. SCOTT: To mothers under that Act—to Indian

mothers. Not very many.

MR. PAULL: May I ask, Dr. Scott, are these treaty Indians?

DR. SCOTT: Yes, they are treaty Indians. Because all the Ontario Indians have ceded their right to the country, their aboriginal rights.

MR. PAULL: I would like to say a word or two in connection with the old age and mother's pension. As is well known to you, there is a mother's pension in vogue within the Province, conducted by the Province of British Columbia. Many of our Indian women have applied, knowing that that Act is applicable to any British subject. But when Mr. Farris was Attorney-General he gave this reply. We have nothing to do with you Indians, you are being taken care of by the Dominion Government; go and see them. Now such a pension to mothers is necessary among the Indian women of the Province, and we are asked that such a system be established as part of the compensation, to mothers, widows, and old people. The working out in detail of that, I cannot enter into just now; I leave that to further negotiations.

MR. KELLY: It does not mean mothers or widows--- if we made such a sweeping statement as that there might be no need of husbands.

MR. DETCHEBURH: It means widowed mothers.

DR. SCOTT: I think it ought to be widows.

MRS. COOK: Yes, widows.

MR. KELLY: Widows, and old age pensions. Just as B.C. makes provision for widowed mothers, who instead of looking after their children are compelled to go

out to work—a provision is made to look after them. That is what we are asking for.

We would like next to add our concluding summing up of the whole thing—which we are not at the present time prepared to do, and go right on.

DR. SCOTT: Before we adjourn there are two points I wish to draw your attention to, and I think it would be of value to have your pronouncement upon. I have understood from the extended observations on the report of the Royal Commission that it does not meet with your approval—the report of the Royal Commission.

MR. KELLY: No it does not.

DR. SCOTT: That it is not a satisfactory settlement of the Indian Reserve question; but you have not definitely stated that you would recommend to the Minister that it be not confirmed by the Dominion Government.

MR. KELLY: We hope to bring that in tomorrow morning.

DR. SCOTT: That is an important point; because if the report is not confirmed, it leaves the whole matter, to my mind, in a very serious position; and I want you to be seized of that fact.

The other point is whether, if the Dominion Government does not find it possible to act on your suggestions, what you consider reasonable settlement of the aboriginal claim; then I take it that these claims you are making are in your minds fair and reasonable demands?

MR. KELLY: Yes.

DR. SCOTT: In the event of the Dominion Government

not being able to enter into the negotiation of a treaty, or further consideration of that subject with the Provincial Government, would you wish to recommend that litigation be undertaken,---that is, that a judicial decision be arrived at?

MR. KELLY: Well, we have that in mind, for our summing up, too, Dr. Scott.

DR. SCOTT: These two points.

The Conference then adjourned until tomorrow morning.

Saturday, August 11, 1923; at 10:30 A.M.

MR. KELLY: We have come to a time when we are within sight of the closing of our series of meetings. And before summing up in a very brief general way, the subject matters which we discussed here during this conference, I would like to mention two matters of great importance.

The first one is this: It may be referred to as a monetary compensation. Now I am not unconscious of the position that we have taken when we met the Minister and yourself in Vancouver last year---that is July of 1922. At that time, although the words are not on record, I think we all have a very clear memory of what we have said. We deprecated the idea of putting on the same basis as the Indians in the Territory and Eastern Provinces. That is to say, we deprecate the idea of receiving a few dollars annually. This sort of a thing we realize in the long run amounts to a great deal; for I understand that on this



W.R.D. system the treaties guarantee that those annuities would continue until the Indians become extinct, or <sup>absorbed</sup> even ~~absorbed~~ into the larger body of citizenship. Generally speaking, Indians in this Province have not looked upon that with any great favour. They think it does not really bring them anything worth while. Therefore we have taken the position that we did.

But we have learned several things since that time; and the general consensus of opinion among the Indians is this; that all that we have been claiming as necessary conditions for an equitable basis of settlement, plan more for the future rather than the present. When I say that, I do not for the moment forget the statement made by the Chief Inspector of Indian Agencies in Vancouver on the 27th of July last; but during the years since Union took place, since the Province entered Confederation, when this matter should have been adjusted, should have been dealt with and settled for all time, as was done in the other Provinces, the matter of course was left over; not because it was not known; but it was ignored—deliberately ignored. We all know the history of that. We all know the report made by the Chief Justice of the Dominion in 1875 on that very matter.

Now I need not try and make out a case there; but because of that position taken, we think that a monetary compensation running over a given period is nothing more than fair. Now we do not say that there should be an eternal annuity; but perhaps

because of the brunt of the battle borne by the present generation, and also the last generation to some extent, in trying to get this matter up for real consideration by the Governments from time to time, we take it it would be a fair proposal to make, that monetary payments, perhaps governing a given period—I do not know how long,—that is open to negotiation—perhaps twenty years more or less; so that the people who are now living, and who will not be in a position to profit by any of the future benefits that we have claimed, would receive direct benefit from the question that is <sup>being</sup> now brought we hope to a position where we are in sight of a settlement.

And the second point that I want to deal with this morning, is what we might term the cost of the case. That is contained in Paragraph 20, p. 15, of our statement. I will just read these words once again: "That all moneys already expended and to be expended by the Allied Tribes in connection with the Indian Land controversy, and the adjustment of all matters outstanding be provided by the Government." We have always insisted on this. And since the Minister has recognized our aboriginal title, and has assured us that we are in a position as of having won our case in Court, we take the ground that we are entitled to the cost of the case. We have been put under heavy expense during these years past, when this matter has been pressed; not only in our particular organisation known as the Allied

Indian Tribes; but different organizations, we have pressed the matter before that. We think of the Indian Rights Organization, we think of the independent efforts that have been made by the different bands from time to time sending delegates to Ottawa.

It is true that those delegations looked only to adjustments in their own particular localities; but, nevertheless, it was part of the one large question. We are not putting any specific sum in at this particular time; we say that is open to negotiation; but I am inclined to think looking over accounts, the cost up to the present time has been something like a hundred thousand dollars, in a round sum. This we consider one of the necessary conditions to be seriously considered in the final settlement of this question.

MR. DETROBURN: Has that money all come from the Indians?

MR. KELLY: Mostly from the Indians; some of it from other people, who have given it as loans. We must pay that back. Now it is not necessary for me to dwell on that any longer; I think, I think that is sufficiently covered.

I would like, then, to proceed to sum up matters that have been discussed in this conference. I do not think it is necessary to go into the details of all that has been said; that would be simply reiterating what has already been said. So I can only refer in a general way.

At the very outset, the position taken by the Indians on constitutional grounds was presented

by our Counsel. That of course is embodied in the records. So I have nothing to say on that.

Then I would like to proceed to criticism of the <sup>report of</sup> the Royal Commission. That has been done in a particular way. Now I would like to just sum up the ground on which we have criticized the report of the Royal Commission. We have already pointed out that even before it started its work it was doomed to failure; because it had powers to deal with lands only, additional reserves and out-offs where it was thought advisable; and the Royal Commission on Indian affairs dealt with those two things, and only those two things—additional reserves and out-offs. They confined themselves to that.

And the second point of criticism, as we have already pointed out, is this, that it had powers only to set apart Crown lands; it did not matter how badly additional lands were needed, in certain localities, if no Crown lands were available; then that ended the matter as far as the need of the Indians was concerned, they can never get any more lands. The only purchases that we have learned of were purchases that were made from individual parties for the sake of satisfying the need of more lands of different bands, took place before the appointing of the Royal Commission, and not during the time of their operation. So they were absolutely confined to Crown lands only; they did not touch any other lands. I recall that applications were made for many parcels of lands that were

adjacent to Indian reserves, because they were considered to be necessary; and because these lands have been pre-empted, or bought, or covered by timber limits, they were unavailable. And they were never dealt with. I am thinking of one particular parcel of ground, which has been the cause of so much illfeeling—the one I refer to is right in Nanaimo. Of course, the Western Fuel Company claims the ownership of the land. The Indians used that for many years, perhaps for a period of thirty years or more, and the time came when they were told to get off; in fact they were driven off. That has been a matter of discussion ever since.

MR. MITCHEBURN: That was land, Mr. Kelly, that the Indians had ceded to the Hudson Bay Company in 1851. They had sold all their interest in that land, and there was a treaty.

MR. KELLY: Well, be that as it may, the fact remains, that the Indian used that land from that time, and never moved off. And what is more, when the railway was built there, when the Western Fuel Company built the railway there they paid the Indians for the right-of-way through that particular piece of ground, thereby recognizing that they had some claim to that ground. I don't know how they explained it, but that was done; the rate that was paid for it was seventy-five dollars an acre.

MR. MITCHEBURN: For their improvements; they improved the land, there is no doubt about that.

MR. KELLY: Yes, but when they were told to get off, there was no recognition taken of the improvements that they had made on all the other twenty-six acres.

Now the third point of criticism that I wish to make of the report of the Royal Commission is this—and we think it is the heart of everything. The general rights depended upon the aboriginal title of the Indians, who are ignored. Now I know the position taken by—I was going to say the Chief Inspector; the explanation given to me by the Chief Inspector is clear in my mind, that there is a distinct difference between lands and the aboriginal title; that in dealing with lands only the general question of aboriginal title was not involved. But these two matters are so involved that you cannot separate one from the other. And in the very agreement that was made, once again referring to the famous Order-in-Council of 1914, I should say the McKenna-McBride agreement.—I read just one paragraph of that: "Whereas it is desirable to settle all differences between the Governments of the Dominion and the Province respecting Indian lands and Indian affairs generally in the Province"—they do not in that agreement lose sight of the Indian affairs generally—which we take it involves the aboriginal title of the Indians—"In the Province of British Columbia, therefore the parties above named, have, subject to the approval of the Governments of the Dominion and of the Province, agreed upon the following proposals as a final adjustment of all matters which relating to Indian affairs in the Province of British Columbia."

Now we take it that that phrase there is the

fatal phrase in the whole agreement.

MR. DETONBURN: Read a little further, Mr. Kelly; read the next paragraph there.

MR. KELLY: Paragraph No. 1.

MR. DETONBURN: And Paragraph 2.

MR. KELLY: "1. A Commission shall be appointed as follows: Two Commissioners shall be named by the Dominion and two by the Province. The four Commissioners so named shall select a fifth Commissioner, who shall be the Chairman of the Board.

"2. The Commission so appointed shall have power to adjust the acreage of Indian Reserves in British Columbia in the following manner"—then we have the condition laid down, of adjustment of acreage. Now I do not lose sight of that at any time. But the heart of the agreement distinctly takes it for granted that when the Province have given additional lands, it would be then taken as having satisfied all claims of the Indians in this Province. Now that is the way we criticize that so severely. What is the logical outcome of that? Simply this: Recently an Order-in-Council was passed in this City here, signed by the Lieutenant-Governor, which is simply clinching this agreement, carrying into full effect the agreement entered into in 1912, between J.A.J. McKenna and Premier McBride of this Province. In so many words it is the final adjustment of all matters relating to the Indian affairs in this Province. We cannot get away from it.

MR. DETONBURN: Have you read the Order-in-Council?

MR. KELLY: Yes.

MR. MITCHEBURN: You can see it refers only to Indian reservations.

MR. KELLY: It does, we recognize that; but the preamble distinctly refers to the agreement entered into.

MR. MITCHEBURN: But you must read the context of the article to get the real sense of it.

MR. KELLY: Well, this Order-in-Council is simply carrying into effect the agreement entered into---the Order-in-Council passed following that; isn't that true?

MR. MITCHEBURN: No; the Order-in-Council is---the recognition is that it is a final adjustment so far as Indian reserves are concerned.

MR. KELLY: Then can you say that the Government of British Columbia, at any rate, has changed its basis? Have they departed from the original agreement drawn up, and is this a new one altogether? Is that the position taken?

MR. MITCHEBURN: The stand I have always taken is that the Commission had no power to deal with anything else except the Indian reservations. They asked for more power, and they were not given it. If you will read the Order-in-Council in that volume of the Royal Commission's Report, which you have before you, you will see that the Royal Commission asked for further power; and by the Order-in-Council passed on the 10th of June 1913 at Ottawa, they were strictly informed that, "The Minister observes that it is clear that the agreement between the representatives of the Province



of British Columbia and the Dominion does not contemplate an investigation and settlement of matters appertaining to general Indian policy in British Columbia. It is confined to matters affecting Indian lands which require adjustment between the parties."

MR. KELLY: Quite true; we recognize all of that. That explanation we have met with, both in British Columbia and in Ottawa. But it does not alter the fact that these fatal words are embedded in the original agreement. That is what we are facing.

MR. DITCHBURN: The preamble says that it is desirable that all differences between the Dominion and the Province with respect to Indian affairs generally, shall be settled, and for the purpose of getting one of these questions settled the Royal Commission on Indian affairs was appointed, just to deal with Indian reservations.

MR. KELLY: Yes,—"subject to the approval of the Governments of the Dominion and of the Province, agreed upon the following proposals as a final adjustment of all matters relating to Indian Affairs." Why didn't they say what they have said in this Order-in-Council which has been brought in? In this recent Order-in-Council it is said, "readjustments of confirmation of the reductions, cut-offs and additions in respect of Indian reserves proposed in the said report of the Royal Commission, as set out in the annexed schedules, be approved and confirmed as constituting full and final adjustment and settlement of all differences in respect

thereto between the Governments of the Dominion and the Province, in fulfillment of the said agreement of the 24th/<sup>day</sup> of September 1912"—which agreement is the one we have read just now,—and also of Section 13 of the Terms of Union, except in respect to the provision for lands for Indians resident in that portion of British Columbia covered by Treaty No. 8, which forms the subject of Interim Report No. 91 of the Royal Commission."

MR. MITCHELL: That is quite clear; it refers to Indian Reservations, and nothing else.

MR. KELLY: I do not think it will get us very much further to argue that point; except this, if the Governments concerned are willing to go on record to say that this deals with reserved lands only, then it will be a different matter. If they would strike out that fatal phrase, "final adjustment of all matters relating to Indian affairs in this Province". Now we are always, as we have pointed out again and again, suspicious of that; in fact we are afraid of it; and if it is changed it will change the appearance of everything in connection with this question. Now that is the position that we take. It was because of that that we have sent in protests against the passing of the Order-in-Council.

And another criticism that we make of the Report of the Royal Commission is this, that, as has already been pointed out in a general way—I would simply like to include that in our criticism, that in the Railway Belt, where the Province

has no right at all, the Commission has gone on record recommending out-offs, where the Province is not concerned at all; and of course the recommendation, by the passing of this Order-in-Council is confirmed; and unless a new machinery is set in operation, we take it that this Order-in-Council is just as applicable to those portions of reserves as it is to all other parts of the Province. Now that is interpreting the agreement as it is before us. I am not unconscious when I say this, of the words of the Minister when he said; We stand on no ceremonies, we want to see the Indians get a square deal. We are glad to hear those words, and we do not forget them at any time. Now it is because of that assurance we criticize, once again, the Order-in-Council on the grounds that we have advanced.

Then, without going into any particulars, I would just like to refer, just under one general heading, to the claims that we have advanced during the past few days that we have been here, as necessary basis of an equitable method of settlement. We put forth definite claims. It is recorded in the minutes; so I am not going to take time for that. Consider that carefully, meet those conditions, of course by negotiation, and do not for a moment think that we would get the maximum claims; but it opens the way to negotiations. We say, now here are the things that we claim; consider these, and meet these, and the matter will be settled.

Now I would like to come to the questions put to us by Dr. Scott yesterday. The questions

put before us were these; that the Report of the Commission does not meet with our approval since it is not a satisfactory settlement of the reserve question, we have not definitely stated that we would recommend to the Minister that this report be not confirmed. Dr. Scott, I understand, takes the ground that we have not definitely stated to the Minister against the confirmation of the Report. You want to hear us take a definite stand on that.

DR. SCOTT: Well, if you wish to take the stand. I don't suggest that you should take a stand, you see; I want<sup>ed</sup> to point out, that so far as I remembered you had not taken a stand. From the contents of the report I understood you had not taken a stand; that is, you had not said anything, I thought that perhaps you would like to say something about that. But I do not require it.

MR. KELLY: In the criticism of the report I think our stand taken on that is generally distinct.

DR. SCOTT: Yes.

MR. KELLY: We lodge an emphatic negative to the passing of any Orders-in-Council, if that Order-in-Council is going to be the final adjustment of all matters relating to Indian affairs in this Province. That is what we are protesting against.

DR. SCOTT: Well, don't you go further than that? Do you not object to the proposed Orders-in-Council as a final question of reserve questions, the allotment of reserved lands? Because, to my mind, that is very important?

MR. KELLY: We take the ground that until the original agreement has been changed, we think there

should be no Orders-in-Council passed; until the whole matter of Indian reserves, as we have discussed it, are subsequently dealt with.

DR. SCOTT: That is clear.

MR. KELLY: We claim that Indian lands, and Indian rights generally, are just part of one big question; and therefore we refuse to have Orders-in-Council dealing with just one matter, when that matter cuts away from under our feet, as it were, our constitutional stand. That is the reason that we are protesting against that. I think that is clear enough.

MR. DITCHBURN: If you are convinced <sup>it</sup> ~~that~~ applies only to Indian reservations, you have no objection? Is there still an objection to the report?

MR. KELLY: We have already answered that question, I think, Mr. Ditchburn. You see, these cut-offs, we have been protesting against them all the time. And also the general grounds of protest.

Then, the other question that you have put before us: In the event of the Dominion not being able to enter into negotiation of a Treaty, or further consideration of that subject, with the Provincial Government, would you wish to recommend that litigation be undertaken, that is, that a judicial decision be arrived at? We have never changed our position, the position taken on that whole question. We have gone on record; and I simply, once again, read that <sup>in</sup> answer to that,—the committee concludes the statement by asserting that while it is believed that all of the Indian Tribes of the Province will press on to the

Judicial Committee, refusing to consider any so-called settlement made in the McKenna- Agreement, the Committee also feels certain that the Tribes allied for that purpose will always be ready to consider any real equitable method of settlement out of Court, which might be proposed by the Governments

DR. SCOTT: What are you reading from ?

MR. KELLY: The second paragraph on the first page. Now that is our answer to that position. Just as we have said in Vancouver, we are not enamored of the idea of getting a decision in the Judicial Court; just for the sake of getting a decision; the purpose of getting a decision would be to arrive at an equitable method of settlement. If that is done out of Court, so much the better. The cost will be a great deal less; and a certain amount of feeling of antagonism which naturally would be aroused on both sides, would be spared. And we do not want to go through all that. But if there is no other method, if the Province is altogether unreasonable, and does not want to listen to any arguments brought forward on behalf of the Indians by the Dominion Government, then perhaps there will be no other way than to recommend that litigation, and a judicial decision be given on this whole question. But not until every other method has been tried. Now that is the position that we take.

MR. MITCHELL: That is the position taken on p. 15 of your book there, the concluding phrase ?

MR. KELLY: Yes, we have amplified that on p. 15.

And we have said that right at the outset. And that is the position that the Allied Indian Tribes take today. We have had no ~~good~~ grounds for changing our position.

MR. MITCHELL: Perhaps you better get that section on p. 15 right in your remarks.

MR. KELLY: Yes; on p. 15:

"We have carefully limited our Statement of what we think should be conditions of settlement to those we think are really necessary. We are not pressing these conditions of settlement upon the Governments. If the Governments accept our basis and desire to enter into negotiations with us, we will be ready to meet them at any time. In this connection, however, we desire to have two things clear. Firstly, we are willing to accept any adjustment which may be arranged in a really equitable way, but we are not prepared to accept a settlement which will be a mere compromise. Secondly, we intend to continue pressing our case in the Privy Council until such time as we shall obtain a judgment, nor until such time as the Governments shall have arrived at a basis of settlement with us."

Now we would like to propose something which we consider to be necessary here. The Royal Commission were appointed to deal with additional lands for out-offs only. That is what they dealt with, whatever the purpose of the appointment was. Now it may be necessary for me to ask a question. What is the method the Governments have in mind so as to deal with the general rights of the In-

dians, such as we have pressed for during these meetings ? Before receiving an answer,---we have always criticized---I should not say always, but at the very outset we have criticized the Royal Commission, because of this, that the Indians were not represented on that body. They had no direct representative on that body. And we think, since the Government has recognized our aboriginal title, the rights for which we are pressing, that a small committee should be appointed---I don't say a cumbersome one, or such a very expensive one as the Royal Commission proved to be; but an efficient Commission, consisting perhaps of three members---  
that can be negotiated for---and this Commission <sup>W.E.D.</sup> be empowered to deal with all the matters that have been brought forward in this conference. Now that is all we wish to say on that matter. Of course, on that Commission; once again, we claim that we have the right to be represented directly. And when that is done I think we will be on a fair way to arrive at a satisfactory conclusion of the whole question.

We have met here in answer to the very very frank invitation of the Minister. Now I will just read the words of the Minister as he uttered them in Vancouver on the 27th of July last:

"Might I say that the officials will be glad to sit in with your committee, Mr. Kelly. I am not particularly definite as to how you shall discuss the matter, but sit in and discuss the matter in detail, and I suppose it will involve taking



the report and seeing wherein it is objectionable, wherein it meets the wishes of particular interests of any band or tribe of Indians, and see if it is possible then for them to negotiate, to meet those desires, or if it is impossible." And later on, he says:

"Please bear in mind our officials all want to go into the matter, and want to sit down and discuss your representations frankly and openly with you, not with the idea of signing their names to a final settlement; but merely as a means of seeing if our officials and your committee could arrive at something definite, then if the Provincial authorities did not come in, we could at least go to them and say, this is the position; and see if an adjustment could not be made."

Having that in view, we have spent many days here going over matters frankly, in a detailed way. We have laid all our cards on the table, as it were, and we are not hiding any trump card that we wish to produce later on; but we have come out absolutely openly and frankly, and have told you everything that we have had in mind, which we consider to be necessary basis of an equitable method of settlement.

We thank you for the very frank hearing <sup>that</sup> you have given us, the patience with which you have borne our questions; and we hope that when this report is made to the Minister, that we will have the assurance that the report will be acted on and carried out. That is our prayer.

DR. SCOTT: Mr. Kelly, and gentlemen of the Allied Tribes, we have listened throughout this conference with very great interest to the presentation of your case. And I think, now that we have it in a volume, and with the particularity in which we have never had it before, that in itself is highly useful.

The Minister's wish, as you know, is to endeavour to settle this case. He has given it great personal attention and emphasis; and I am sure that he will give the necessary time, amid his multifarious duties, to consider the contents of the report which I will present to him. Our reporter tells us that it will cover nearly four hundred pages of foolscap; and from that fact alone you can judge of the detail which has been transferred into these notes.

For myself I may say, and I speak for the Chief Inspector also, that it has been a pleasure for us to have had such an intimate relation with you in the discussion and consideration of these matters.

Whatever suggestions I have made in the past have always been made with goodwill, and good faith, looking toward a fair and equitable settlement of the question, no matter what great differences there may be in the application of those terms. And now that the general question has taken a little different trend, you may still count upon my sympathetic support toward a fair and equitable settlement of the question.

It is a very difficult question; and as years go by, the difficulties rather increase than

diminish. It is a peculiarly difficult question with the Dominion Government, the guardian of the Indian interests—the Government which is deeply interested in satisfying the Indians of British Columbia, and in having a contented people as their wards in this Province.

I do not think I should say anything further, except to compliment you all in the spirit in which you have conducted these negotiations, and the manner and method in which you have presented your claims.

When the report is in our hands I will submit it to the Minister, and it will be fully and carefully considered.

I think now that we may finally adjourn our sessions.

(The Conference adjourned accordingly).

FORESHORES IN FRONT OF INDIAN RESERVES.

STATEMENT OF GENERAL COUNSEL.

Before the year 1916 it was generally understood that the foreshore in front of an Indian Reserve is part of the Reserve. Evidence of this fact is to be found in Interim Report No. 5 of the Royal Commission (Vol. 1 p. 27), describing lands of the foreshore required for railway purposes as "forming part of the Mission Reserve No. 1 of the Squamish Tribe of Indians".

During the Session of Parliament of the year 1916, by correspondence contained in Return<sup>made</sup> to the Senate and by statement made on the floor of the House of Commons, it was shown that the Indian Department had taken the position that the Crown is owner of all such foreshores.

Manifestly the practical effect of conceding the soundness of this contention would be of most sweeping character. In front of every such Reserve throughout the Province would stand land property of the Crown held in right of the Province of British Columbia or of the Dominion of Canada. It becomes then a seriously important question whether the claim thus set up can be established.

If it should be sought to establish the claim upon any ground related to the prerogative rights of the Crown, a sufficient answer is that prerogative rights are based upon territorial sovereignty and in case of almost the whole of British Columbia no cession of territorial sovereignty has been made.

If it should be sought to establish the claim by relying upon the provisions of the British North America Act, what will be found to be the title of the Crown acquired under those provisions? The answer furnished by the Southern Nigeria case is very clear. From the judgment delivered by the Judicial Committee in that case, (Page 403) I quote the following words:--  
 "A very usual form of native title is that of a usufructuary right, which is a mere qualification of or burden upon the radical or final title of the Sovereign where that exists. In such cases the title of the Sovereign is a pure legal estate, to which beneficial rights may or may not be attached".

It is I think quite unnecessary for present purposes to attempt fuller definition of the title of the Crown. Whatever the precise nature of that title may be in the case of the lands of British Columbia, the Crown's title to lands held in right of the Province is by Section 109 of the British North America Act expressly made subject to the full actual title of the Indian Tribes which is an interest in the lands of the Province within the provisions of that Section.

With regard to lands property of the Crown held in right of the Dominion of Canada, as being within a public harbour or otherwise, these are dealt with by Section 106 and the Third Schedule of the Act. Without entering upon a discussion of this particular matter, I remark that the principles affirmed in the Southern Nigeria case show the character of the Crown's title to such lands.

The really material question to be determined is what is the character of the title of the Indian Tribe. I submit that the Southern Nigeria case clearly and definitely answers this question. In delivering judgment in that case their Lordships say (Page 402):  
 "In order to answer the question, it is necessary to consider, in the first place, the real character of the native title to the land". The observations of their Lordships which follow, dealing with native title "not only in Southern Nigeria but other parts of the British Empire", may be summarized by defining native title to land as beneficial communal ownership.

On Page 6 of Statement of December 1919 one of the radical defects of the Report of the Royal Commission is stated in these words:- "Foreshores have not been dealt with". It is submitted that this defect alone would justify the Allied Tribes in refusing to accept the Report of the Royal Commission as a settlement of even the one matter of lands to be reserved. How then shall foreshores be dealt with? This would seem to be a very practical question requiring now to be faced.

If upon hearing of the independent Petition of the Allied Tribes now before His Majesty's Privy Council their Lordships of the Judicial Committee should decide that the principles affirmed in the Southern Nigeria case are applicable to the lands of British Columbia, what would be the position regarding foreshores? Their Lordships would I think decide that the Indian Tribe has beneficial communal

ownership of the foreshore in front of every Reserve.

If their Lordships should decide that the Indian Tribes have not the territorial land rights claimed, but on the contrary the Province of British Columbia acquired under the British North America Act the absolute title to lands which the Province has claimed to have, what would be the position regarding foreshores? In that event manifestly as I submit the exceedingly important matter of reserving all foreshores in front of Reserves as additional lands for the use and benefit of the Indian Tribes should, if found necessary, be dealt with by reference to the Secretary of State for the Colonies under Article 13 of the Terms of Union.

In view of all above set out it is submitted that Condition No. 4 of Allied Tribes proposing that all foreshores be included in the Reserves with which they are connected is manifestly well founded.

"A. E. O'Hearn"

23rd August, 1923.

General Counsel of  
Allied Tribes.

.....

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

  
Stenographer.





EXTRACTS FROM THE REPORT ON THE CONFERENCE OF  
DR. DUNCAN C. SCOTT, D.S.G.I.A., CHIEF INSPECTOR DITCHEBURN  
AND THE EXECUTIVE COMMITTEE OF THE ALLIED INDIAN TRIBES OF  
BRITISH COLUMBIA, HELD AT VICTORIA, BEGINNING AUGUST 7, 1921

MR. KELLY:

..... For if there is anything that would place the Indian on something like an equal footing with the white man, it is education.....

..... The Indians are realizing the value of education; and those who have made their contribution to the general progress of the Indian race, were the ones who had some educational training.

But we beg to maintain that, as important as the work that has been done in the past is, it is not altogether sufficient to qualify the Indian to meet the conditions that he is called upon to meet at the present time. To be able to read and to write and do elementary kinds of arithmetic I do not think is quite enough. He has been brought to realize that if he is going to compete with his white brethren, with his white neighbours, he must have certain qualifications, he must have certain trainings.

..... The Indian has not had the chance of learning trades, he has not had the chance of going to any of the vocational schools, or technical schools. ....

..... I do believe that in the near future there will be more Indians who would be striving to get higher education; and we would like to have provision made for it; and we would like to see the Indians go through the public schools, and through the high schools and then if they are fitted to go through college, we would like to see them be brought right through to graduation, from the universities.....

..... There are certain defects in the present system of education as it affects the Indians in this Province. We have public schools for Indians established throughout the Province. Now the first thing we realized this morning was this, there has been wonderful improvement made in the way of getting qualified teachers, but we feel somehow that there is still a great deal of room for improvement in getting qualified teachers to teach in all the public schools -- when I say public schools of course I mean the Indian schools. ....

MR. KELLY:

Now we propose this, that instead of the pupils being compelled to stop when they have passed into the High School, that a provision be made for a continuation of their studies, where it is near centres where there is a High School, for instance, Nanaimo, or North Vancouver, or Chilliwack, the places where they are close to a High School, that provision be made for the continuation of their studies with those High Schools. We think it is a good thing for the Indian children to come into contact and direct competition with the white children, that it will be better; I think that goes without saying. But where that is not possible, we would propose that an institution where they could carry on that education, be set up.

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..... If a central institution was established, where all the pupils from outlying districts, I mean all the sections of the Province, were brought into close contact, in carrying on their higher education, we venture to think it would be a good thing for all the Indians to come closer together, to understand each others view point; it would break down the sectional differences that obtain in this Province at the present time. Now with regard to vocational training; some of the industrial institutions are attempting that. ....

..... Education is too general. Why cannot we take the lid off our Indian education, in qualifying the pupils for something very definite; and instead of scattering their energies over things that are not altogether considered necessary, bend all their training towards something, so that when they come out they will be prepared to take their place, and put their hands to the wheel, and feel that they are equal to stand side by side with other men and women. Now that is what we would like to see done.....

..... And we would like to see the Indian young men and the young women feel that they need not be hindered from going on because of financial burdens; that the way is open for them. Now that is all that is necessary for me to say on that particular head.

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